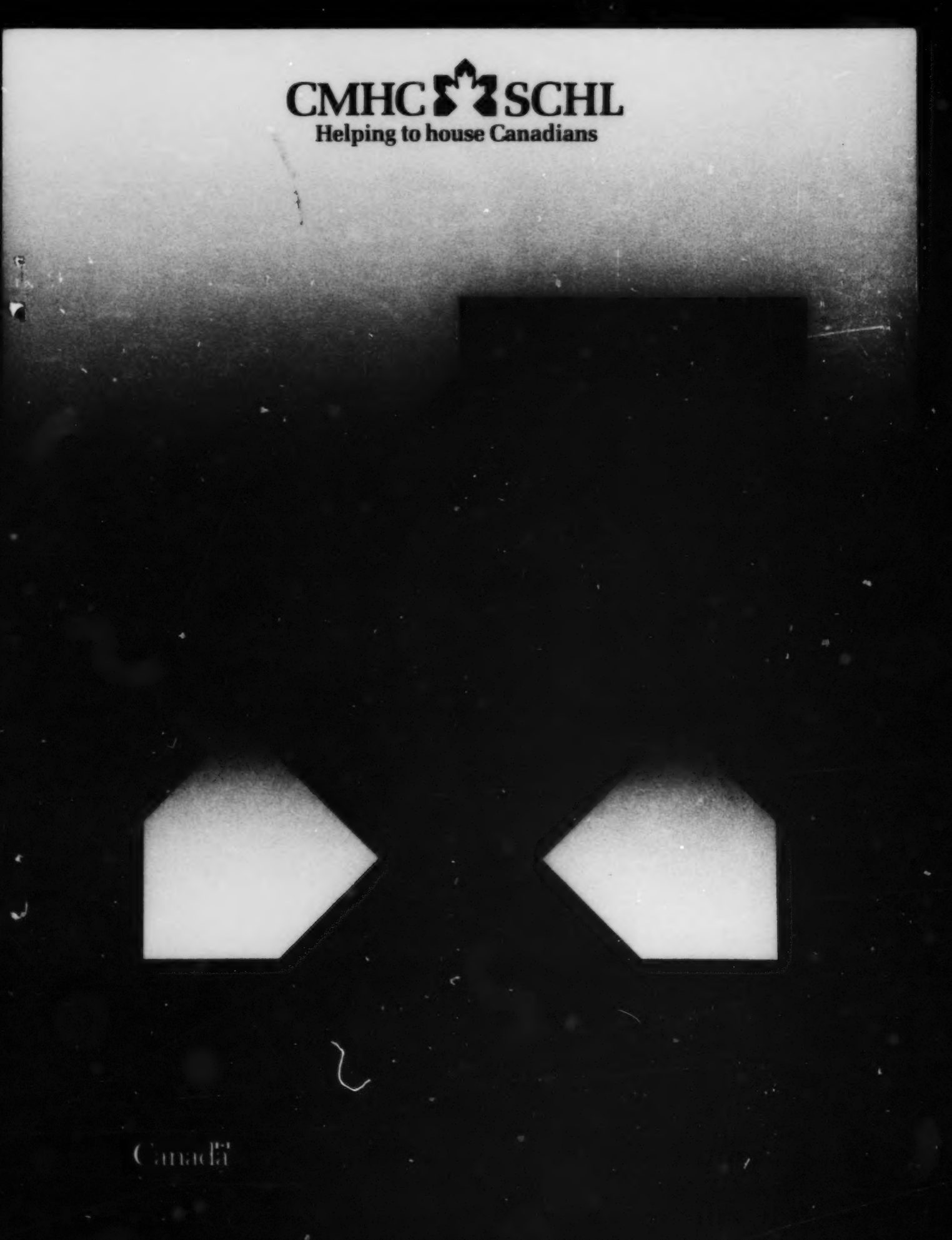
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DEVELOPMENT OF INNOVATIVE FINANCIAL AND TENURE APPROACHES FOR SENIORS' RETIREMENT HOUSING PROJECTS

DEVELOPMENT OF INNOVATIVE FINANCIAL AND TENURE APPROACHES FOR SENIORS' RETIREMENT HOUSING PROJECTS

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ABSTRACT

Development of Innovative Finance and Tenure Approaches for Seniors Retirement Housing. Prepared by Richard Gron, Elizabeth Kuglin-Aylea, and Ian Ellingham of Elfield Development Strategies Limited. Funded by Canada Mortgage and Housing Corporation, 1990.

This report examines the issues surrounding ownership-style seniors housing, with specific reference to a property owned by a religious organization in London, Ontario. The study reviews various methods of giving ownership and near-ownership to seniors, explores the market context of such vehicles, using London as an example, and proposes a possible project on the site, with reference to the market conditions, and the expectations of non-profit sponsors.

The feasibility of providing such housing, accommodating both market tenants, and low-income persons, was demonstrated.

EXECUTIVE SUMMARY

This report reviews housing alternatives for seniors based on ownership and near-ownership principles, from a development-oriented perspective. The topics reviewed include alternative methods described in the literature and utilized by operating projects. The marketing and development aspects of the hypothetical project built on a site in London, Ontario, are discussed, to resolve the characteristics of potential demand in a middle-sized Canadian city.

The major findings and recommendations are as follows:

1. Review of Tenure Options

It was concluded that seniors ownership-style housing projects should be built utilizing:

(a) A condominium structure if no ongoing control of the project is desired.

(b) If ongoing involvement by the sponsor is desired, a condominium structure with tenancy in common with a specific agreement between senior and sponsor governing the terms of occupancy and financing should be utilized.

Other methods, while utilized by a number of successful seniors projects, contain a number of legal and financial uncertainties.

2. Feasibility of Building Ownership Seniors Projects

Seniors ownership and near-ownership is a viable and desirable form of accommodation. A selection of seniors ownership-type projects were visited and reviewed from the literature. They were found to be functioning well, with a high level of resident satisfaction, and significant waiting lists.

3. Market Context

Projects exist in market contexts. The possible price of units is directly related to the houses that seniors will be selling in order to purchase. The review of specific market information, and the determination of a targeting strategy is necessary for any specific project. The authors of this report suggest that typical unit prices should not exceed the mean resale price of houses in the community of the project.

4. Project Structure

Interview data indicated that few seniors who could afford to purchase a unit would prefer a one bedroom apartment. Most of the units should have two bedrooms. The demand for three bedroom units has not been thoroughly tested, however available information suggests that they would be popular.

5. Low Income Units

Within many locations, it will be possible and desirable to create units for low-income/ low-asset seniors within such a project, utilizing what would be equivalent to an entrepreneur's profit in other projects, or available land surplus.

6. Government Role

The study recommends the development of standardized legal contracts for the creation of tenure, pricing, and redemption. This type of initiative could be undertaken with or without funding for low-income persons. Such an initiative could be accomplished at minimal cost, and would encourage the creation of additional affordable units for seniors without the use of ongoing subsidy contributions.

RÉSUMÉ

Le présent rapport examine les différents aspects relatifs au logement pour aînés tenant de la propriété, en s'appuyant sur le cas d'un ensemble appartenant à un organisme religieux à London, Ontario. L'étude passe en revue différentes méthodes visant à donner l'accession à la propriété ou à la quasi-propriété aux aînés, explore le marché de ces diverses formules, London servant d'exemple, et propose la réalisation éventuelle d'un ensemble résidentiel pour cet emplacement en fonction des conditions du marché et des attentes des organismes de parrainage sans but lucratif. Le document démontre la faisabilité de ce type de logements, qui accueilleraient à la fois des locataires du marché et des particuliers à faible revenu.

Voici les principales constatations et recommandations du rapport :

1. **Examen des différents modes d'occupation**

L'étude juge que l'on devrait construire des ensembles de logements pour aînés tenant de la propriété en utilisant :

a) une structure de copropriété si l'on ne désire pas une gestion permanente;

b) si une participation continuelle de l'organisme de parrainage est souhaitée, un immeuble en copropriété accueillant des locataires et régi par une entente particulière entre les aînés et le groupe de parrainage relativement aux modalités d'occupation et de financement.

D'autres méthodes, bien qu'utilisées avec succès par d'autres ensembles pour aînés, soulèvent un certain nombre de doutes quant aux aspects juridique et financier.

2. Faisabilité de construire des ensembles pour aînés tenant de la propriété

La propriété et la quasi-propriété constituent des modes d'occupation viables et souhaitables. Nous avons visité un échantillon choisi d'ensembles pour aînés tenant de la propriété et avons examiné la documentation à ce sujet. De tels ensembles paraissent bien fonctionner, la satisfaction des résidents semble grande et les listes d'attentes sont longues.

3. Marché

Les ensembles s'inscrivent dans le contexte du marché. Le prix éventuel des logements est directement relié aux maisons que les aînés devront vendre pour acheter. Pour tout ensemble il faut se fonder sur un examen des données portant sur un marché particulier et la détermination d'une stratégie de ciblage. Selon les auteurs du présent rapport, les prix des appartements ne devraient pas excéder le prix moyen de revente des maisons de la collectivité où se trouve l'ensemble.

4. Structure de l'ensemble

Les renseignements obtenus lors d'entrevues indiquent que peu d'aînés, parmi ceux qui peuvent se permettre d'acheter un appartement, préféreraient un logement d'une chambre. La plupart des logements devraient avoir deux chambres. La demande pour des appartements de trois chambres n'a pas été

vérifiée de façon détaillée, mais les données disponibles laissent entendre qu'elle serait assez forte.

5 Logements pour ménages à faible revenu

À de nombreux endroits, il sera possible et souhaitable de créer dans ces ensembles des logements destinés aux aînés disposant d'un faible revenu et de peu de biens en utilisant ce qui serait l'équivalent des bénéfices de l'entrepreneur dans d'autres ensembles ou encore des terrains excédentaires disponibles.

6. Rôle du gouvernement

Dans l'étude, on recommande l'élaboration de contrats juridiques uniformisés régissant l'établissement du mode d'occupation, l'établissement des prix et le rachat. On pourrait entreprendre ce genre d'initiative en incorporant ou non une aide financière pour les particuliers à faible revenu. Une telle initiative pourrait être menée à peu de frais et favoriserait la création de logements additionnels abordables à l'intention des aînés sans recours permanent aux subventions.

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1.0 TERMS OF REFERENCE

This research project has been defined by terms set by two parties. A response was made by the consultant, Elfield Development Strategies Limited, to a request from Canada Mortgage and Housing Corporation (CMHC), according to terms set by CMHC. Discussions with potential project sponsors further defined the terms of reference, adding some, and refining others.

Canada Mortgage and Housing Corporation

Canada Mortgage and Housing Corporation in its statement indicated that the study is to address five broad issues:

i) Analyze the costs and marketability of a resident-financed retirement project and provide recommendations on methods to offset the cost of accommodation for seniors with lower levels of income and assets,

ii) Analyze the financial and legal feasibility of various alternative tenure options and provide recommendations on appropriate tenure forms,

iii) Explore the aspects of cross-subsidization of units, according to the financial means of tenants,

iv) Explore the implications of land value in the creation of such housing,

v) Examine and identify government programs which could help subsidize accommodation costs.

The Project Sponsor

Potential project sponsors' objectives had a somewhat different focus. The various groups with whom discussions were held, indicated the following requirements and objectives:

i) Recommend a method to provide affordable housing for persons, some of whom may have limited income and limited assets.

ii) Recommend a method and structure which would expedite a project, and to achieve the social objectives of a non-profit project sponsor, without requiring a large financial contribution.

2.0 INTRODUCTION

In recent years, the non-profit housing sector has undertaken a number of initiatives to create a stock of affordable seniors housing, without the use of government programs. This has been done for two reasons, the non-profit housing programs being oriented increasingly towards low income families, and the realization that many seniors own houses, can afford to cover the capital cost of their own housing, and the desirability such ownership can be to the individual seniors households. The non-profit housing sector has built a very attractive rental stock, and this experience is being transferred to ownership and near-ownership housing.

There is a need to establish acceptable methods with regards to the tenure methods offered, and the form future projects might take. Such future projects must respect the market context in which they are to be built, the objectives of the sponsor, financial feasibility, and the legal environment.The existing projects have been built by particularly aggressive, innovative, and resourceful sponsors. They have used a variety of housing forms, which do not necessarily give the greatest possible amount of security to either tenant or sponsor. In most cases, the tenants are assured of the safety of their housing and investment, by virtue of the respect given to the sponsoring organization and individuals. In order for the non-profit community to create more affordable seniors ownership housing, many of these issues must be resolved.

This project is the result of an initiative taken by Canada Mortgage and Housing Corporation to explore the issues of ownership-style seniors housing. The site referenced was used for illustrative purposes, and any concepts, proposals, or specific data included in this report were created by the authors of this report. Such material should not be construed as having been approved by Canada Mortgage and Housing Corporation for use in any project.

3.0 BACKGROUND INFORMATION ON THE HYPOTHETICAL SENIORS PROJECT

3.1 Project Configuration

For the purposes of the analysis of alternative possible tenure structures, a hypothetical project configuration was developed based on a total of 200 residental units and a 11,000 square foot seniors centre.

It is assumed that the project sponsor is a typical non-profit organization with the following objectives and criteria for the project:

a) The provision of housing for seniors who are capable of living independently,

b) The units to be built are self-contained apartments,

c) The project is to offer affordable housing, within the context of the community,

d) The project is to be built with a minimum amount of equity. The sponsor has little or no money to contribute to the project, however does have an available parcel of land,

e) The sponsor wishes to select tenants initially from its own constituency, however will address the needs of the larger community, as may be possible,

f) The amenity areas of the project, described as the community centre, will be open to the public,

g) The project sponsor does not have major development resources, and will retain the appropriate consultants and contractors,

3.1.1 Demand for Units

The administrators of the existing seniors ownership-tenure projects interviewed indicated that two bedroom units were overwhelmingly preferred by their clients. This is understandable as many seniors have lived most of their lives in multi-bedroom houses.

The low proportion of one bedroom units is also supported by the findings of the Campbell's 1987 Survey of senior homeowners. Of those seniors showing some interest in retirement or life tenure housing, only 5 percent said that they would consider a one bedroom unit most appropriate.

Accordingly, the hypothetical seniors project will consist of 200 two bedroom units each having a floor area of 960 square feet.

3.1.2 Unit Price

A pricing structure for the market priced units in the hypothetical project was developed with the objective of making the project marketable to the majority of the senior homeowners in London.

The units of the hypothetical project have an average selling price of $140 per square foot. This figure is considerably higher than the average selling price of new standard condominiums in London. Section 4 reviews the housing market in London; reference to Exhibit 4-6 can be made for comparables which can be considered relative to the study site. The projects at 744 Wonderland Road and 570 Proudfoot Lane, while standard condominiums, are currently offered for sale at from $102 to $126 per square foot. These very basic projects will be compared by prospective purchasers, hence the amenities, standard of finish, and overall community context must be apparent in the study project, to overcome this price difference. The one real luxury project, the Sir Adam Beck, selling at over $200 per square foot is much closer to the city centre. That project has only 67 units, and is selling them to a very limited selection of the London population. Within the context of a religious sponsor, greater accessibility to a wider population would be expected. The $140 per square foot price, should be appropriate given an expected building completion in two years time. Within the hypothetical project, this means a market value of $134,400 per unit ($140 per square foot X 960 square feet).

3.2 Capital Costs

For the purposes of the analysis a capital budget was developed for the project. Operating costs were also estimated and are based on the actual operating costs of private non-profit senior's projects. All capital and operating costs are based on mid-1990 figures.

Two alternative methodologies were used in developing the budget. The first was derived from the Ontario Ministry of Housing's own figures, and adjusted for the specific characteristics of the project concept. The second was calculated through the development of a specific budget from fundamental budget data.

The budget cost of the project does not include an allowance for a developers profit or surplus, although a building contractor's profit is included. The developer's profit on an entrepreneurial condominium can be budgeted as high as 20 percent of the cost of the project. A non-profit organization making a financial surplus on a project, may use the surplus funds for social purposes, such as housing for low-income persons.

3.2.1 Ministry of Housing Maximum Unit Price Formula

The Ontario Ministry of Housing's maximum unit price for the development of a two-bedroom seniors' apartment in London is currently $80,000 (including the cost of serviced land). The London office of the Ministry reports that non-profit developers do not have difficulty in constructing modest accommodation for this figure. They stated that construction costs have been falling in the past year making the figure even easier to achieve. The Maximum Unit Price figures include all of the costs for creating modest housing units, including land, construction, project financing, and all fees.

The modest accommodation constructed under the maximum unit price formula lack certain amenities such as central air conditioning, and underground parking which are appropriate for retirement dwellings offered on an ownership or near-ownership basis. In addition there will be additional marketing and legal expenditures that will be incurred.

An estimate of the project cost has been developed and has been included in Exhibit 3-1. Based on the current maximum unit price for a seniors two bedroom unit and estimates of additional expenses, a unit cost of $115,320 has been projected.

3.2.2 Itemized Cost Basis

The budget for the hypothetical project development based on the projected configuration has been summarized in Exhibit 3-2. This model uses the Ministry of Housing's budget structure with land, building, landscaping, and contingency costs and additional fees and charges individually itemized.

The budget cost of the project, using the itemized cost basis is 116,895 for a two-bedroom unit of 960 net square feet. The higher figure has been used in the all subsequent calculations.

Notes on this method are as follows:

(a) **Land Costs**
The land costs were estimated at $11,000 per dwelling unit including development charges and servicing expenses. Currently, the Ministry of Housing accepts up to $9,500 per dwelling unit in land costs for social housing projects in London.

(b) **Construction Costs**
Construction costs were based on $73.20 per square foot. According to the Ministry of Housing construction costs for this type of structure have ranged from $63 to $75 per square foot. The low figure was for an eight storey apartment structure which was tendered in London in mid 1990. This particular project was more modest than would be appropriate for units to be offered for sale or near-ownership tenure, so a higher figure was utilized. It has been assumed that the project will be tendered as a conventional stipulated sum contract.

(c) **Parking Costs**
The model includes 200 spaces of parking constructed below grade and 50 spaces of parking above grade. A construction cost of the parking was estimated at $14,000 per space for below grade parking and $3,000 per space for above grade parking. The City of London has indicated that this type of housing project will require 1.25 parking spaces per unit.

(d) **Contingency Costs**
A construction contingency allowance of 2 percent of the construction cost of the building has been included in the budget.

(e) Marketing Costs

A marketing budget has been included which recognizes the way in which most similar non-profit projects have been marketed. This budget will allow the hiring of an older individual from the sponsoring community, and the preparation of suitable support material. If other marketing strategies are planned by a sponsoring organization, the budget will have to be adjusted accordingly. The financing costs are based on carrying a minimal number of units for a short period of time after occupancy. It is expected that most prudent non-profit sponsors will undertake to commit a substantial proportion of units before the start of construction, thereby minimizing marketing risk. In London, all of the condominium projects reviewed were selling a large proportion of their units after completion, with some of the 1988 completions still selling units in 1990. The ease of selling units before the commencement of construction must be considered by a potential sponsoring group, as an appropriate budget adjustment, to allow for carrying them after completion, as may be required.

3.3 Operating Costs

The operating costs for the hypothetical project were estimated from information provided by the Property Tax Department of the City of London and the administrators of resident-financed retirement projects.

The property taxes in 1990 on a $100,000 condominium apartment unit were estimated at $1,200 per year. The property taxes on a similar unit in a rental apartment building were estimated at $1,400 per year.

The monthly operating costs of the project were estimated at $2,400 per unit per year. This figure covers all additional expenses (except for taxes) including administration, maintenance, insurance and utilities.

Therefore the total occupancy cost of a unit was a condominium project was estimated at $300 per month while in a rental building it was estimated at $320 per month.

3.4 Difference Between Market Value and Cost

The hypothetical project illustrates the presence of a surplus, which is the difference between market value, and the project cost of development. Within the entrepreneurial context this surplus becomes the developer's profit. Within the non-profit context it becomes available for project enhancements, expansion, or other social ministries.

Within the hypothetical project, surplus can be identified as follows:

(a) Donated land value of $1,685,278 (8,426 per unit)

(b) Savings resulting from the non-profit sponsor acting as the developer of $2,482,077 (see Exhibit 6-3) or $12,410 per unit

EXHIBIT 3-1

Estimate of the Cost of the Hypothetical Project
Based on the Ministry of Housing's Maximum Unit Price

Maximum Unit Price		
– two bedroom seniors apartment in London (860 square feet)		$80,000
Additional cost of increased area for an enhanced retirement unit		
(100 square feet @ $120 per square foot)		$12,000
Additional cost for improved ammenities for an enhanced retirement unit		
(Airconditioning, improved finishes etc.)		$8,000
Additional cost for an underground parking space for each retirement unit		$14,000
Additional costs of the condomium structure		
Warranty Program	$39,000	
Legal and Survey	$45,000	
Marketing	$120,000	
Occupacy Cost	$60,000	
Total Cost	$264,000	
Per unit cost (based on 200 units)	$1,320	$1,320
Retirement Dwelling Cost (per unit)		$115,320

EXHIBIT 3-2

Capital Budget for the Hypothetical Seniors Project

	PROPERTY ACQUISITION	TOTAL	SRS CENTRE	APARTMENTS	
1	Estimated Land Value	1,685,278	76,878	1,608,400	
2	Legal Fees	5,000	263	4,737	
3	Title & Transfer Tax	0	0	0	
4	Servicing to Site	0	0	0	
5	Imposts & Levies	591,889	33,289	558,600	
6	Surveys	6,000	316	5,684	
7	Soils Tests	8,000	421	7,579	
8	Interest on Land	0	0	0	
9	TOTAL LAND COST	2,296,167	111,167	2,185,000	
	FEES & CHARGES				
10	Taxes during Constn	21,018	1,018	20,000	
12	Architects Fees	737,933	31,400	706,533	4% of 29 & 34
13	Legal Fees (other)	40,000	0	40,000	
14	Organization Expense	366,194	15,509	350,685	1.5% of total
15	Mortgage Fees	0	0	0	project cost
16	Interest During Constn	1,640,893	62,811	1,578,082	At 13.5%
17	Bldg Permit Fees	129,555	6,320	123,235	
20	Project Documentation	8,000	0	8,000	
	Survey Location Certificates	97,000	5,000	92,000	
	Marketing	120,000	0	120,000	
	New Homes Warranty	38,871	0	38,871	
21	TOTAL FEES & CHARGES	3,199,464	122,058	3,077,406	
	BUILDING				
22	New Construction	14,768,325	715,000	14,053,325	$73.50 per Sq.Ft
23	Undergroudn Parking	2,800,000	0	2,800,000	
24	On-Site Services	260,000	0	260,000	
25	Stoves & Fridges	220,000	0	220,000	
27	Furnishings &Equip	110,000	50,000	60,000	
28	TOTAL BUILDING	18,158,325	765,000	17,393,325	
	LANDSCAPING				
30	Surface Parking	150,000	0	150,000	
31	Landscaping	140,000	20,000	120,000	
34	TOTAL LANDSCAPING	290,000	20,000	270,000	
	OCCUPANCY LOSS	60,000	0	60,000	
35	CONTINGENCY				
	Construction	368,967	15,700	353,267	2% of building
	Other Contingency	25,000	0	25,000	costs
	TOTAL CONTINGENCY	393,967	15,700	378,267	
36	TOTAL CAPITAL COSTS	24,397,923	1,033,925	23,363,998	
	AVERAGE COST PER UNIT	121,990	5,170	116,820	
	TOTAL CAPITAL COSTS EXCLUDING ESTIMATED LAND VALUE	22,712,645	957,047	21,755,598	
	AVERAGE COST PER UNIT EXCLUDING ESTIMATED LAND VALUE	113,563	4,785	108,778	

4.0 RETIREMENT HOUSING IN LONDON

4.1 The Role of the Non-Profit Sponsor

Retirement housing can be divided into a number of market segments. To focus on a specific market and project, on a specific site, it is necessary to consider the sponsor and the sponsor's objectives.

Religious non-profit sponsors have created social housing projects for many years, as part of their own defined objectives of providing social ministries to meet the needs of the wider community.

Government non-profit housing programs funded by provincial and federal agencies resolved many of the potential questions regarding the sponsor's objectives. For example, programs of the Ontario Ministry of Housing ensure that a housing project is modest, offers affordably-priced market-rent units, and that a minimum of 40% of the units are directed at people classified as the "neediest".

Potential sponsors must only determine whether the terms of reference of the program are in keeping with their definition of social ministry, and whether or not to participate.

A group without the terms of reference of established programs, must work to manage the proposed project to meet their social mandate.

Non-profit sponsors have a long history of social ministries to the poor and those with limited incomes. Statements by potential sponsors include many comments about their intent to address social needs. These comments are not dissimilar to those concepts held by many active, aggressive, religious organizations who contemplate building social housing projects.

Religious and other community organizations usually have the following objectives when sponsoring seniors projects:

i) There should be component to address the needs of low income seniors,
ii) A seniors project should offer the type of environment which allows the seniors to live their lives to the fullest,
iii) Projects should generally stay within the confines of modest housing,

iv) The tenure offered to the seniors must be as fair as possible.

4.2 The Market for Non-assisted Retirement Housing

Prior to initiating a seniors' retirement housing project, the project sponsor must reconcile the objectives of the sponsoring group with the nature of the need to be met. Taking this outside of the established concepts and terminologies of social housing, this means that it is necessary to establish that there is an adequate market for the units and to identify the characteristics of that market.

The potential market can be identified by using census data, real estate sales data, and the results of direct surveys of potential purchasers. Specific classification of potential purchasers is necessary to give the necessary input into the configuration of the project.

The market for any seniors ownership project can be defined according to a limited number of potential factors. A model for selecting from the general population for the specific target is illustrated in Exhibit 4-1. The factors that were identified by the project sponsors interviewed as best defining the target group were: cultural/ethnic characteristics, age of the target group, and level of affluence and home-ownership. The relative importance of these factors varied among the projects reviewed.

Those projects with a strong religious or ethnic nature attracted occupants from a large geographic area, in some cases extending throughout Ontario, while those with weaker cultural characteristics found their market among a much smaller geographic catchment area.

The following is a strategy to identify the size and nature of the potential market for a resident-financed seniors' project. Although the analysis specifically applies to the potential market in the London area, the method can be applied to most communities in Canada.

4.2.1 Definition of the Geographic Catchment Area

Seniors' projects tend to draw from the community at large, unless they are strongly culturally defined. Otherwise it is unrealistic to expect that seniors will move a long distance from their present home, potentially facing numerous changes. Representatives

of the resident-financed seniors' projects interviewed estimated that over 80% of their occupants come from the surrounding geographic community, defined as a larger municipality, or a small municipality and surrounding areas.

Therefore, except for projects which are expected to have a strong cultural or ethnic definition, the catchment area of a project should be defined as the region from which 80% of the prospective residents reside.

For a retirement project located in the London area, the city limits of London could be considered as a reasonable catchment area, although it is also likely that the project may find some additional purchasers in the greater London area.

The 1986 census revealed the population of the City of London to be 269,140.

4.2.2 Cultural/Ethnic Characteristics of the Target Group

Ownership and near-ownership seniors' housing has been attractive to a number of the religious and ethnic organizations who sponsor rental non-profit seniors' housing. Many of these organizations would like to develop a project that is designed to meet the needs of a specific cultural or ethnic group. While it can be assumed that such a project could potentially have wide geographic appeal to members of the cultural group, the definition of the typical purchaser is more difficult.

Census data provides only limited information about the cultural, religious, and ethnic characteristics of the residents of any catchment area. Correlation of much available data is very risky, and creates the potential for misinterpretation of market. For example older members of a cultural group may own houses of a considerably lower value than the average for their geographic community. This means that very specific research will be necessary for target market definition, including direct surveys and development of waiting lists. Further information may be found from other sources such as church records, or more specific demographic surveys of the community.

Given the utilization of a hypothetical sponsor of the study project in London, it is impossible to identify a particular cultural focus for the project. This

implies that it can be assessed according to the information applicable to the surrounding geographical community.

4.2.3 Age of the Target Group

In analyzing available data, and through discussions held with project administrators, it becomes apparent that for most projects there is a specific age/health "window" during which the propensity of seniors to move to any specific type of retirement housing peaks.

Retirement projects are usually targeted at people who feel that they are at a transitory point in the life process. For most seniors, this is usually between the ages of 60 and 75 years. Seniors are obviously very reluctant to move from the house that they may have lived in for several decades. The project administrators reported that very few of the seniors moving into their projects were below 65 years.

While the experience of the existing projects establishes a lower limit, a less-firm upper limit also exists. Among a number of rental social housing projects reviewed, it was found that the number of new tenants over age 75 who chose to move in was relatively low, unless the project offered care, or was perceived to offer care. By the age of 75 years, seniors have decided they are happy living in their house for their retirement years, and will not face the task of moving until significant care services are required. These factors can account for the fact that most resident-financed seniors' projects reported that seniors rarely enter the projects after the age of 75 years.

Therefore a reasonable target age group for resident-financed seniors' housing projects is 65 to 74 years. According to the 1986 census for the City of London, there were 18,000 seniors between the ages of 65 and 74 years. This amounted to 6.7% of the population of London.

4.2.4 Income Ranges

Although the level of retirement income does not appear to have a direct effect on a senior's decision to purchase retirement housing, the household income prior to retirement is likely an important characteristic of the target group. According to the project administrators, resident-financed retirement projects are most attractive to seniors who were in the "middle-middle" income group prior to retirement.

4.2.5 Degree of Home Ownership in the Target Group

It can be assumed that any resident-financed retirement project will appeal primarily to seniors who can finance the purchase of the dwelling from the proceeds of the sale of their current homes.

Seniors appear to be adverse to assuming debt to finance their household expenses. The 1987 survey by Campbell of senior homeowners indicated that, if they had to make the choice, seniors would prefer by a ratio of 12 to 1 to get by on less income than to take on debt. This survey also reported that, in Ontario, 95% of homes owned by seniors were mortgage-free.

The project administrators interviewed reported that most of the seniors purchasing a retirement dwelling financed the purchase with the proceeds from the sale of their homes.

Therefore the project sponsor should target those seniors who currently own homes and those who have recently sold their homes.

The 1986 census data for the City of London indicates that there are 9,920 dwellings owned and occupied by a senior over the age of 65 years. Based on Statistics Canada's estimates of home ownership levels in the London CMA, it is estimated that 67.5% of this figure (or 6,696 dwellings) are owned and occupied by a senior aged 65 to 74 years. This amounts to 4.8% of the all the occupied private dwellings in the city of London.

4.2.6 Affordability of the Project for the Target Group

Since it is assumed that most seniors will finance the purchase of a retirement dwelling with the proceeds from the sale of their homes, it follows that the level of perceived affordability of the retirement project would be directly related to the market value of the senior's home. The administrators of existing resident-financed projects reported that few of the seniors who purchased a retirement unit invested additional capital above the values of their homes.

The administrators of the Toronto-area projects reported that a typical senior was able to set aside approximately $100,000 after the sale of his/her home and the purchase of a retirement dwelling. In projects located outside of Toronto, it was reported that

seniors rarely retained more than $25,000. Although the larger amount in Toronto is attributable to the rapid escalation of house prices in the Toronto real estate market, it does suggest that seniors in both locations expected to retain some of the value of their homes to augment their retirement income.

The seniors' retirement income did not appear to be a major factor in the purchasing decision. This can be expected since the monthly expenses in most life-lease and condominium projects are relatively low, only covering ongoing occupancy costs, and since capital availability is a more significant factor in the decision to purchase.

Accurate aggregate data relating to the market value of seniors' homes is difficult to obtain. A reasonable estimate of the market value of housing in a particular area can be derived from real estate sales data. Although the data is not broken down by age, it is reasonable to assume that the price distribution of seniors homes in an area would be similar to the general price distribution.

The average residential resale price trends for the past 5 years for the London area are illustrated in Exhibit 4-2. In the first quarter of 1990 the average resale price of homes in London was approximately $138,500. The London residential real estate market has been favorable to home owners in recent years, with the average resale price rising by an average of 15% per year for the past four years.

The distribution of residential resale prices have been analyzed and the results are included in Exhibit 4-3, and illustrated in Exhibit 4-4. In the first quarter of 1990, 21.7% of all residential sales were for homes priced below $100,000; 40.5% were priced between $100,000 and $140,000; 21.5% were priced between $140,000 and $180,000 and 16.3% were priced above $180,000.

4.2.7 The Market for Non-assisted Retirement Housing in London

The size of the potential market for a resident-financed retirement project in the London area was analyzed. A hypothetical project offering 160 units sold at market value was used. It was assumed that the balance of the project (40 units) would be made available on another basis.

For the purpose of the analysis the project was considered affordable by the target group if the selling price of the unit in the project was lower than the resale price of the senior's home. The target group was the 6,696 seniors, aged 65 to 74 years, who own their own homes. It was assumed that the value of the homes owned by the seniors in the target group followed the same distribution as the residential resale prices in London in the first quarter of 1990.

The result of the analysis has been included in Exhibit 4-5. The first column lists the selling price of a unit in the hypothetical project. The figures in the second and third columns are, respectively, the percentage and number of seniors in the target group who own homes valued above the selling price of the unit.

From this analysis, it appears that, if a unit in the hypothetical project were priced at $120,000, 60.2% of senior homeowners in the City of London aged 65 to 74 years could afford the unit based on their existing housing. Similarly, if the unit were priced at $150,000, 30.8% of senior homeowners could afford it, and if priced at $180,000, 16.30% of senior homeowners could afford it.

The figures in the fourth column indicate the degree of market penetration (of those seniors who can afford a unit) that is required to sell 100% of the units in the hypothetical project.

Based on this analysis, in order to sell all of the units in the project at a price of $120,000, the project sponsor would need to convince 4.0% of the seniors in London aged 65 to 74 years, owning a home valued above this price, to purchase a unit. Similarly, if the selling price were $150,000, the sponsor would need to convince 7.75% of the senior homeowners; and if the selling price were $180,000, the sponsor would need to convince 14.7% of the senior homeowners to purchase a unit.

4.3 Comparable Projects in London

According to the London office of the CMHC, there are no condominium or life-lease apartment projects specifically geared to seniors in the City of London. Most seniors who desire to own an apartment condominium unit, live in general market condominiums not specifically targeted to older individuals.

As of May 1990, there were approximately 3,640 registered apartment condominium units in the city of London. The 1986 census indicated that 35% of condominium households were maintained by seniors 65 years and older.

Since 1986 there has been an increase in condominium construction in London from previous years. Exhibit 4-6 lists the apartment condominium projects that have been completed recently and those under construction.

The selling price of new condominium units varies depending on the size of unit, the amenities of the unit and the project, and on the location of the building in the city. The London office of the CMHC considers condominium units selling above $130,000 to be "luxury apartments".

Figure 4-6 shows a range of current selling prices of from $102.77 to $138.83 per square foot for the projects, except the Sir Adam Beck project, which is selling at approximately $200.00 per square foot. Projects nearest the study site are at 744 Wonderland Road and 570 Proudfoot, which are basic apartment projects selling for $102.77 to $126.21 per square foot. Of the new projects reviewed, only the Sir Adam Beck would appear to be in the luxury category, with respect to quality of finishes and amenities.

It should be noted that projects completed in 1989 are still being marketed. CMHC and interview data indicated that the projects completed in 1988 had sold their last units in early summer 1990.

4.4 Affordability

4.4.1 Accommodation for Lower Income Seniors

A household is said to have affordability problems if it does not have access to adequate accommodation without spending an inordinate share of income on shelter. CMHC and several charitable organizations agree that when low-income households' shelter costs are 30% or more of their income these households are compelled to cut back on other essential expenses such as food, clothing, and transportation.

Traditionally, it has been the policy of the government to ensure that the basic needs of seniors are addressed. In their review of government policy

concerning the elderly, Gunn et.al. (1983) contend that income security now seems to be emerging as a primary concern of public policy-makers, rather than as an issue secondary to the meeting of basic needs.

The federal and the provincial governments have programs to ensure income security for seniors. In Ontario the major income security programs are the Basic Old Age Pension (OAP) and the Guaranteed Income Supplement (GIS). In July 1990 these programs provide an individual senior a monthly income of $844.41 and a senior couple a combined income of $1400.50

Using the CMHC's criteria for housing affordability, the maximum monthly accommodation expense that a senior receiving income security payments is capable of paying is $253.33 for an individual and $420.15 for a couple.

The provincial government, through the Ontario Housing Corporation and the London and Middlesex Housing Authority (LMHA) provides assisted accommodation to needy households. Accommodation is provided in projects owned by the LMHA or in units located in privately owned buildings made available to the LMHA through the provincial Rent Supplement Program. The rent of an assisted unit does not exceed 25% of the household income of the tenant. The Rent Supplement Program is described more fully in Section 9 of this report.

4.4.2 Affordability of Market Priced Units

Fillon (1990) identifies several factors which contribute to housing affordability problems in Canada. A primary factor is the increase in the number of households which, in turn, increases the demand (and the cost) for land in the urban areas. Rising production costs and high interest rates are all factors which contribute to the cost of housing.

Recent amendments to the Planning Act will require municipalities in housing priority areas to allocate 25% of all new housing stock as "affordable". The Community Improvement Office of the City of London defines affordable housing as the rent or housing payments that can be afforded by a household earning $46,300 in 1990. According to this criteria, homes selling at a price below $130,000 are considered affordable. Similarly rental payments below $1,160 per month are considered affordable.

With respect to the affordability of rental units, in the October 1989 CMHC rental survey, fifty percent of two bedroom apartments in London rented for between $440 and $619 per month, with only 10.3 percent renting for over $660 per month. This is in the context of a vacancy rate which rose from 0.4 percent in October of 1985 to 3.6 in April of 1989, before falling to 2.9 percent in October 1989. The fall in vacancy rate was partially due to few new building completions in mid-1989.

EXHIBIT 4-1

Definition of the Target Group

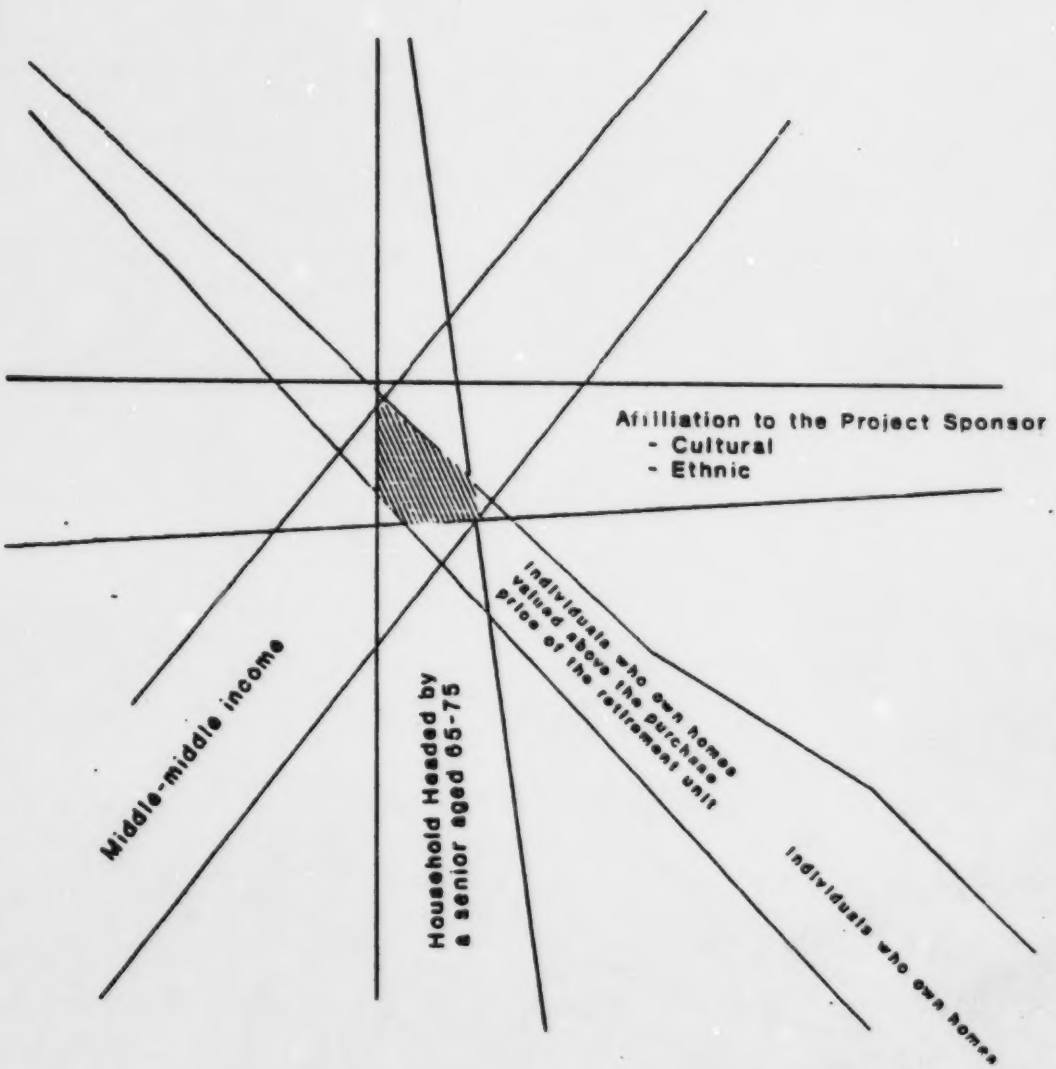
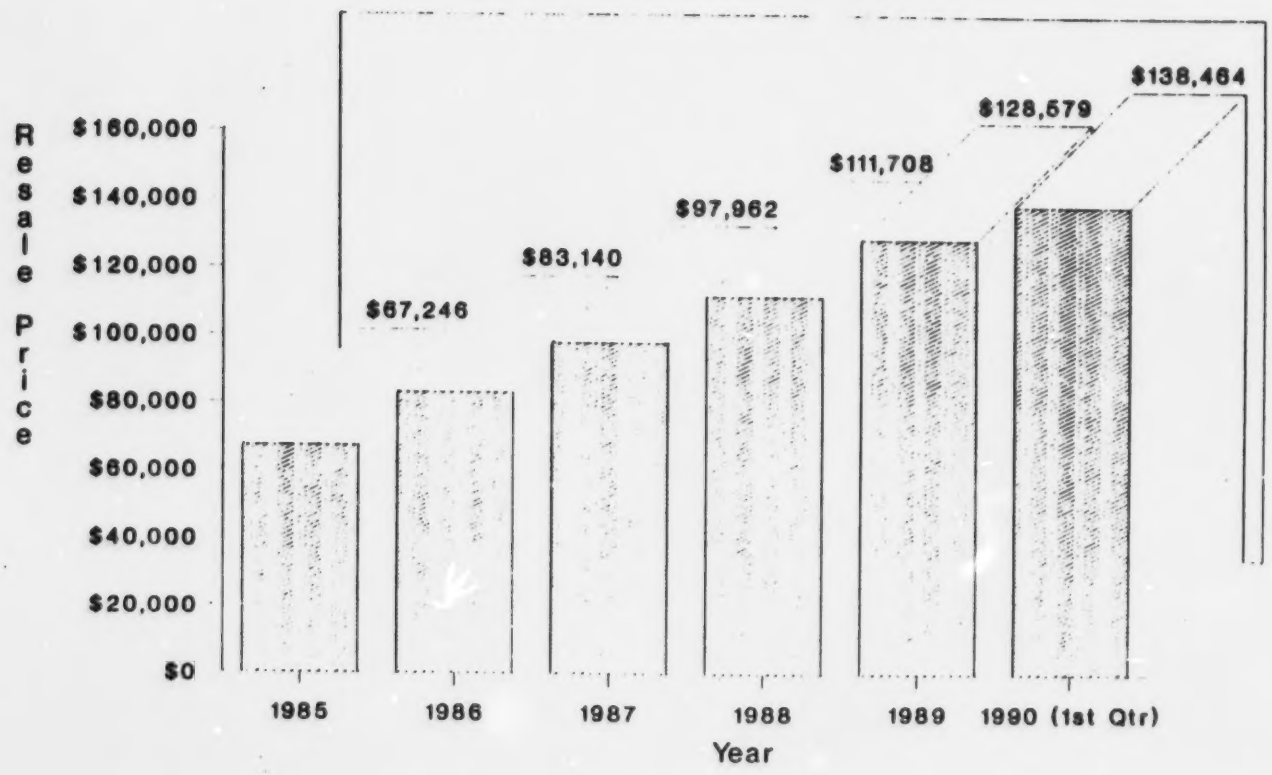

Affiliation to the Project Sponsor
- Cultural
- Ethnic
Middle-middle income
Household Headed by a senior aged 65-75
Individuals who own homes valued above the purchase price of the retirement unit
Individuals who own homes

EXHIBIT 4-2

Average Residential Resale Price in the City of London



London MLS Data

EXHIBIT 4-3

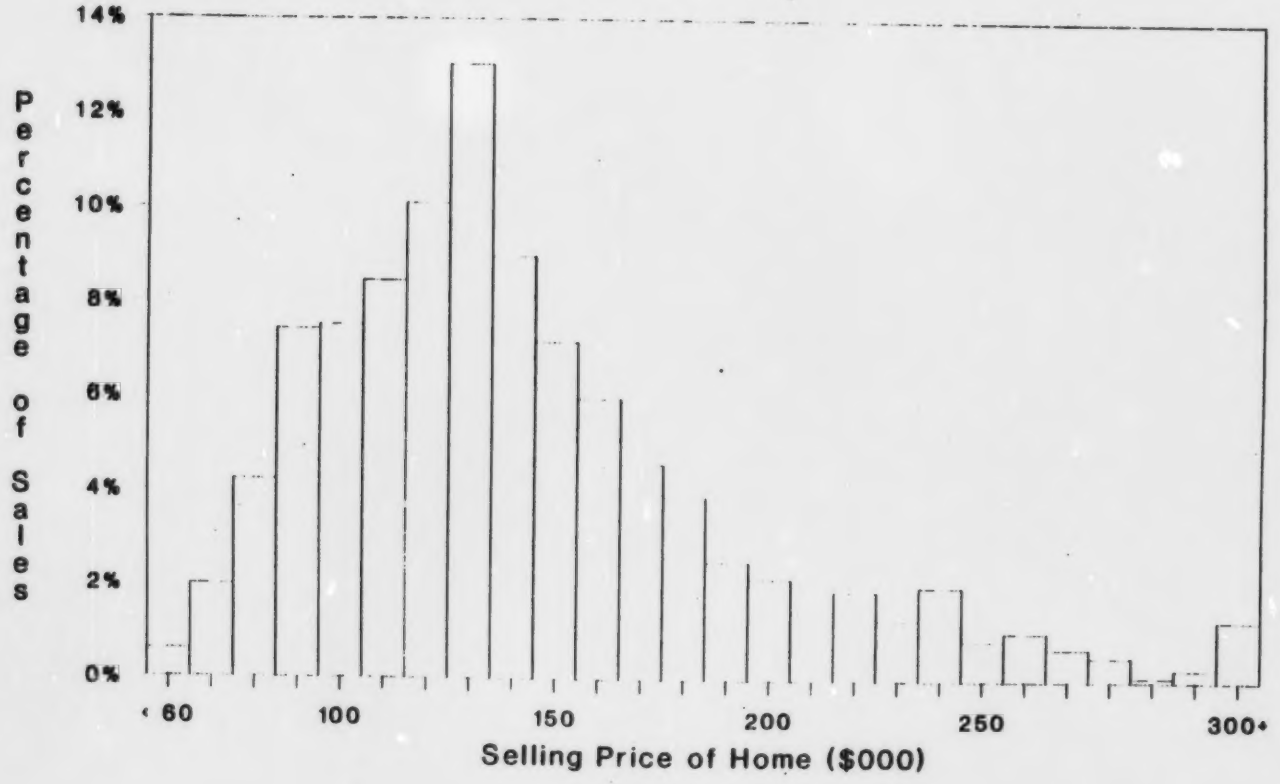
Percentage Distribution of Residential Sales
in the City of London

Resale Price of hom				Distribution of all home sales	Distribution of house and townhome sales	Distribution of condominium unit sales
below		60.000	< 60	0.60%	0.35%	0.00%
60.000	to	69.999		1.99%	2.03%	0.00%
70.000	to	79.999		4.23%	3.70%	35.00%
80.000	to	89.999		7.43%	7.40%	10.00%
90.000	to	99.999	100	7.51%	7.67%	0.00%
100.000	to	109.999		8.46%	8.46%	10.00%
110.000	to	119.999		10.10%	10.22%	5.00%
120.000	to	129.999		13.04%	13.13%	10.00%
130.000	to	139.999		8.98%	8.90%	15.00%
140.000	to	149.999	150	7.17%	7.31%	0.00%
150.000	to	159.999		5.96%	6.08%	0.00%
160.000	to	169.999		4.58%	4.58%	5.00%
170.000	to	179.999		3.89%	3.88%	5.00%
180.000	to	189.999		2.50%	2.47%	5.00%
190.000	to	199.999	200	2.16%	2.20%	0.00%
200.000	to	209.999		1.47%	1.50%	0.00%
210.000	to	219.999		1.90%	1.94%	0.00%
220.000	to	229.999		1.30%	1.32%	0.00%
230.000	to	239.999		1.99%	2.03%	0.00%
240.000	to	249.999	250	0.86%	0.88%	0.00%
250.000	to	259.999		1.04%	1.06%	0.00%
260.000	to	269.999		0.69%	0.70%	0.00%
270.000	to	279.999		0.52%	0.53%	0.00%
280.000	to	289.999		0.09%	0.09%	0.00%
290.000	to	299.999		0.26%	0.26%	0.00%
300.000	and over		300+	1.30%	1.32%	0.00%

Reference . London MLS Data - First Quarter 1990

EXHIBIT 4-4

Percentage Distribution of Residential Sales in the City of London



London MLS Data for First Quarter 1990

EXHIBIT 4-5

Potential Size of the Market of a Resident-Financed Retirement Project in London

Number of Homes in the City of London Owned and Occupied by a Senior Between 65 to 74 Years	6,696 homes
Number of Market Priced Units in the Study Project	160 units

Selling Price of Unit	Percentage of Seniors' Homes Valued Above Selling Price	Number of Seniors' Homes Valued Above Selling Price	Penetration of Target Group Required to Sell All of the Units
60,000	99.65%	6,672	2.40%
70,000	97.62%	6,537	2.45%
80,000	93.92%	6,289	2.54%
90,000	86.52%	5,793	2.76%
100,000	78.85%	5,280	3.03%
110,000	70.40%	4,714	3.39%
120,000	60.18%	4,029	3.97%
130,000	47.05%	3,150	5.08%
140,000	38.15%	2,555	6.26%
150,000	30.84%	2,065	7.75%
160,000	24.76%	1,658	9.65%
170,000	20.18%	1,351	11.84%
180,000	16.30%	1,091	14.66%
190,000	13.83%	926	17.27%
200,000	11.63%	779	20.55%
210,000	10.13%	678	23.58%
220,000	8.19%	549	29.16%
230,000	6.87%	460	34.77%
240,000	4.85%	324	49.31%
250,000	3.96%	265	60.27%
260,000	2.91%	195	82.18%
270,000	2.20%	147	108.48%
280,000	1.67%	112	142.74%
290,000	1.59%	106	150.67%
300,000	1.32%	88	180.80%

Reference : London MLS Data - First Quarter 1990
Statistics Canada - 1986 Census Data

EXHIBIT 4-6

Recent Apartment Condominium Completions in the City of London

YEAR	PROJECT NAME	PROJECT ADDRESS	UNITS	TYPICAL AREA	SELLING PRICE	UNIT PRICE	COMMENTS
1988	Richmond Row	695 Richmond Street	204	1,300 sq ft	$179,900	$138.38 / sq ft	- 1990 resale prices
				1,800 sq ft	$249,900	$138.83 / sq ft	- Sold Out
	Victoria Place	650 Cheapside Street	60	650 sq ft	$65,500	$100.77 / sq ft	- 1988 new selling prices
				908 sq ft	$81,000	$89.21 / sq ft	- Unsold units still available
	Blackfriars	549 Ridout Street North	64	2 Bedroom	$135,000		- 1990 resale prices
	Regency Towers	19 King Street	38				- Unsold units still available
1989	570 Proudfoot	570 Proudfoot Lane	118	811 sq ft	$95,000	$117.14 / sq ft	- 1990 new selling prices
				1,119 sq ft	$115,000	$102.77 / sq ft	- 66% Sold
	Wyndham Gate	1510 Richmond Street	100	1,224 sq ft	$139,500	$113.97 / sq ft	- 1990 new selling prices
				2,470 sq ft	$275,000	$111.34 / sq ft	- 75% Sold
1990	Park Terrace	1180 Commissioners Road	72	1,320 sq ft	$163,800	$124.09 / sq ft	- 1990 new selling prices
				1,500 sq ft	$185,100	$123.40 / sq ft	
Under Construction as of August 1990							
	Sir Adam Beck	240 Sydenham Street	67	1,796 sq ft	$349,900	$194.82 / sq ft	- 1990 new selling prices
				1,847 sq ft	$376,900	$204.06 / sq ft	- 23% Sold
	Westford	744 Wonderland Road	94	1,030 sq ft	$130,000	$126.21 / sq ft	- 1990 new selling prices
				1,135 sq ft	$134,000	$118.06 / sq ft	
				1,440 sq ft	$157,000	$109.03 / sq ft	

Sources London MLS Data
Canada Mortgage and Housing Corporation

Note - A selection of projects were visited to confirm data

5.0 LEGAL FEASIBILITY OF COMBINING VARIOUS FORMS OF TENURE

5.1 Introduction

There are several tenure and/or ownership options available for a project sponsor to develop retirement housing. Each form has specific advantages and disadvantages. The two traditional forms of tenure for retirement housing are monthly rental and individual condominium ownership. In recent years several alternative forms have evolved. These methods include loan stock arrangements, shared equity arrangements, and life leases.

This section provides a description and a summary of the advantages and disadvantages of each tenure form. Also included is an analysis of the legal aspects of each type of agreement with respect to the laws and regulations in the Province of Ontario. A major characteristic of many of the agreements concerns details of their functioning; no examples of interpretations by courts were encountered.

Although each of the tenure models may appear distinct, they may be better viewed as a continuum of long term tenure options for retirement housing. Each provides the project sponsor with varying degrees of control over the management of the project and in the selection of the tenants. The financial, legal and social aspects of each provides certain advantages and disadvantages that must be weighed by the senior and the project sponsor. Exhibit 5-2 illustrates how each of the various tenure options can be applied in the province of Ontario..

All of the models (except for the monthly rental agreements) require the seniors to finance all or a portion of the capital cost of their unit with an initial lump sum payment. In return, the seniors get the right to occupy their unit for the rest of their lives. When the senior dies or chooses to no longer occupy the dwelling unit, he/she may be entitled to a return on the initial investment in the unit. The nature of the financial return for the senior is predetermined at the time of purchase and can be dependent on the type of model in question. Exhibit 5-1 illustrates the continuum of financial returns possible on a seniors' initial investment at the end of tenancy for each of the models.

The initial investment may appreciate in value in proportion to the market price of the unit or to some cost index. An agreement may stipulate that the senior may only receive their initial investment back with no appreciation, or the investment may actually decline in value with time. The most restrictive form of return model is one where the senior is not entitled to any financial return once the investment is made.

A word of caution must be stated with regard to legal aspects of each of the models. It is possible that some or all of the alternative tenure forms may be in violation of some aspect of provincial legislation. We have attempted to provide an overview of many of the legal concerns of each of the models. Obviously, if one of the tenure models is selected, all legal aspects of the model must be investigated by qualified legal counsel.

5.2 Monthly Rental Agreements

The monthly rental formula has been the traditional form of non-profit seniors housing. This form of tenure best serves retired seniors who have a regular limited income such as a pension, but who have not built up equity in their home.

Seniors who have their own homes and who wish to enjoy the advantages of traditional rental housing have the option of selling their homes and putting the remaining equity into retirement investments such as annuities or trust funds. The investment income can be used to supplement the senior's retirement pension income.

Advantages and Disadvantages for the Senior

The traditional rental agreement is a well understood form of tenure, with the tenant well aware of his/her obligations. To the senior, the strongest aspect of a rental unit is the flexibility it provides the occupant. If the tenant is unhappy with any aspect of the project, he/she has the option of moving out on short notice and finding alternative accommodation.

Monthly rental agreements are attractive to those seniors on fixed income who do not have a substantial value of equity in their homes or to those seniors who would prefer to liquidate that equity to provide a better retirement income.

Most seniors who have owned their own homes in the past are wary of renting on a monthly basis. Many, having seen the appreciation in the value of their own homes, view rent as a 'waste of money'. There is the fear among many seniors that they may spend all of their liquidated equity and run out of money at some later date.

Another key disadvantage of using the proceeds from the sale of the home to purchase retirement investments to supplement pension income are the tax implications. The income from these investments are taxable and thus rent is paid from after-tax income, while the imputed rent associated with home ownership is not taxable.

Advantages and Disadvantages for the Project Sponsor

The primary advantage to the project sponsor of a traditional rental project is the large market demonstrated for this form of tenure. Most seniors' projects are rental and function well as community. The control of the ongoing project by the sponsor is clearly defined and understood. The project sponsor maintains control over the selection of tenants and over the general management of the project.

The main disadvantage of rental projects for the project sponsor is the large start-up capital required. Since the tenant in a traditional rental building does not finance the construction of the project, the sponsor must obtain financing from the government or commercial sources.

In Ontario, the operating expenses of a building tend to rise faster than the allowable limits on rent increases. This is of particular concern to non-profit projects, which tend to operate with the intention of minimize cost to the tenants, and hence have minimal surpluses. This exposes the project to unforeseen expenses (such as increased taxes or repairs), which could cause major financial problems.

A further concern regarding rental tenure projects is restrictions on changing the nature of tenure in rental buildings after the building is occupied. The Rental Housing Protection Act (1989) makes it difficult for a project sponsor to convert an existing rental building to another form of tenure (such as a condominium).

In most parts of Ontario, it is not financially feasible for non-profit organizations to develop rental apartment buildings without utilizing government

programs such as the Private Non-Profit Housing Program. The debt service related to the capital financing, plus operating costs and taxes makes the resulting economic rents considerably higher than market rents for comparable units.

Finally, in most municipalities the property taxes on rental buildings are substantially greater than taxes on similar condominium projects. In some areas, the taxes on rental properties are as much as double that of a comparable condominium. These property taxes must be passed on to the tenants.

Legal Concerns

In Ontario, the relationship between the senior and the building owner is governed by the Landlord and Tenant Act, R.S.O. 1980, c.232 as amended. This relationship of landlord and tenant arises under the Act when the tenant is granted a right of exclusive possession of residential premises for a fixed or determinable period of time in exchange for rent. Although the senior does not have title to the residential unit, but the right to possess it without prohibition on his/her right of alienation, the protection of the Act reasonably assures that the senior tenant can remain in possession under the provisions of the tenancy agreement. This possession remains intact as the term of the tenancy agreement has not expired or has been terminated for non-payment of rent or other cause(s) set out in Part IV of the Act.

The Residential Rent Regulation Act, S.O. 1986, c.63, as amended, gives additional protection to the tenant against rental increases over and above a rent increase ceiling, unless consent is given for a variation from that percentage. Several rental projects owned, operated, or administered by non-profit religious sponsors for charitable uses have obtained exemptions for their rental units from this Act.

The provisions of the Rental Housing Protection Act, S.O. 1989, c.31, are designed to restrict the demolition, conversion, or renovation of existing rental property into other uses (condominiums in particular) and thus safeguard residential rental stock. The application process for approval under the Act and its predecessor have effected significant deterrence upon owners and developers. In short, the residential rental unit cannot be easily withdrawn from the rental market, thus creating an additional protection for tenants. Certain exemptions exist,

however, for non-profit organizations operating under agreement with the Ministry of Housing, or C.M.H.C.

5.3 Freehold Condominium (Individually Owned Condominiums)

A condominium is a multi-unit residential structure that has separate ownership of each unit. In Ontario, although most condominium projects have been developed by entrepreneurial corporations (developers), a number of community and non-profit groups have developed condominium projects as social housing.

The Condominium Act of Ontario provides a comprehensive set of regulations for the establishment and operation of condominiums.

Prior to development, it is necessary that the developer (the non-profit project sponsor) own title to the land on which the proposed building is situated. The developer would then apply to the local municipality to obtain a zoning change for the site and a building permit. After the construction of the structure is completed, the developer then applies to the local land title office to register the condominium on to land title. Registration consists of the filing of the charter of the condominium corporation (the declaration) and a detailed description of the condominium.

The developer can sell condominium units at any time during the development process, but the title to the units can not be transferred to the individual purchaser until the condominium is registered.

Once a condominium is registered, a board of directors is elected by the owners to manage the property and assets of the building. The operating costs of the condominium (utilities, taxes and maintenance) are generally passed on to the seniors in the form of a monthly common expense charge.

The Ontario New Homes Warrantee Program

All new condominium projects must be enroled with the Ontario New Homes Warrantee Program. This program is designed to protect new home buyers with regards to the quality of the project. Prior to construction the developer must pay a deposit (currently $20,000 per unit) and an administrative fee. The developer works with the program during design and construction to ensure that the project is constructed soundly. If any

defect in workmanship or materials in the unit is detected in the first year of ownership the program may use the developer's deposit to pay the required repairs. If there are no claims against the developer, the deposit is refunded in full, usually after occupancy.

Representatives of the Program have indicated that the Ontario New Homes Warrantee Program would not provide a warrantee on condominium units that have been leased or rented prior to registration. The developer is still required to register with the program and pay the initial deposit. After the units are leased the developer can apply to the Program to get it's deposit refunded.

Advantages and Disadvantages for the Senior

Ownership of a condominium unit provides the senior with the greatest security of all of the forms of tenure discussed because as owner, the senior has full title to the unit. Under a standard condominium declaration, the senior is generally free to sell, mortgage, or sublet the unit to whomever he/she wishes. Condominium ownership provides the senior, or an estate, protection against inflation.

The monthly share of property taxes in condominiums are usually much cheaper than those in similar life-lease projects. In most municipalities, condominiums are assessed at a lower value than similar rental or life-lease structures. As a result, the total property taxes, and thus operating costs, can be lower in condominium projects.

The primary disadvantage of condominium ownership is that, unless the senior obtains outside financing, he/she must invest the entire cost of the unit to occupy the unit.

A common concern among those seniors considering the purchase of a condominium unit is the uncertainty over increases in the monthly condominium fees. Unlike monthly rent, condominium fees are not subject to rent control. Many seniors fear that these fees could over time rise above a manageable level.

Advantage and Disadvantages for the Project Sponsor

Development of a freehold condominium project can allow a project sponsor to maintain influence over the character of a retirement project without having

outright ownership (even after registration). This can be achieved by including in the original condominium declaration provisions designed to maintain the social spirit of the retirement community.

Such provisions could empower the project sponsor to:

a) Enforce owner-only occupancy

b) Force a sale of a unit if the mental or physical health of the owner deteriorates to the point where he/she is at personal risk, or is a burden on the other owners.

c) At the time of sale of the unit (for any reason) the project sponsor would be provided with the right of first refusal for the unit at a market price, appraised value or some other predetermined price. The declaration can only be amended with the consent of all the owners of the units.

The major concern for the sponsor of a freehold condominium is the lack of control it holds over the project after registration. Although the declaration can only be changed with the agreement of all of the units, changes to the condominium bylaws require only the agreement of the majority of the units. Control over the management of the project resides in the hands of the collective owners of the units.

Legal Concerns

While project sponsors may attempt to maintain some control over the project by means of the declaration, the law is not at all certain regarding the legality of these attempts.

Section 3(3) of the Condominium Act R.S.O. 1980, c.84, as amended, sets out the contents of the declaration, the most important for the purposes of this discussion being those respecting the occupation and use of the unit and common elements, and those restricting gifts, leases, and sales of same. These issues surface as "adult-only" or "seniors" buildings, and restrictions on the right of alienation.

The "adult only" or "seniors" issue was recently dealt with by the Ontario Human Rights Code Board of Inquiry, which ruled that "adult-only" condominiums were illegal in Ontario. Such restrictions were held to be in

violation of the Ontario Human Rights Code protection against discrimination based on age and family status. The Board noted Section 3(3) of the Act, as above, but ruled that the effect of "adult-only" restrictions was "intentional or direct discrimination", although no malice was implied. The Board ruled that malice was not required for discrimination to exist. The Board also ruled that age discrimination offends Section 15(1) of the Charter of Rights and Freedom, which guarantees against age discrimination.

On the basis of this section, age restrictions are illegal. Any attempt to restrict the use to seniors' accommodation by relying on the provisions of the Ontario Human Rights Code which might allow characterization of the use as one for a disadvantaged group, would appear curtailed.

Similarly, the enforceability of "owner-only" occupancy or attempts to limit the ability of the unit owner to lease or sell as he/she sees fit appears to run contrary to case law and common law. At common law, any restraint on the right of alienation of freehold property is void. This right is well-established in property law and is not easily overcome. In the only reported court decision to date on any provisions of a declaration under Section 3(3) of the Act, the court ruled that the unit owner's right to rent cannot be taken away by the provisions of the condominium corporation. It has been suggested that outright prohibitions against sale or leasing are frowned upon by the courts, but reasonable restrictions, such as renting or selling only to individuals approved by the Corporation's Board of Directors might be acceptable.

Other restraints on the right of alienation may take the form of options, repurchase provisions, pre-emptive rights, or rights of first refusal. An option, regarded as an interest in land, has been upheld in at least one case. However, with the other three restrictions, regarded as personal or contractual rights, it may be considered that the property concept of restrictions on alienation ought not to be applied to rights that are contractual. However, the law remains unclear. Indeed, the authors of Anger and Honsberger, Law of Real Property, (pg 119), write that restraints are inappropriate because "they weaken the economic and social structure of society by keeping property out of circulation, discouraging improvements, and encouraging impertinence." If so, the writers argue, such restrictions should be struck down no matter what form they take, whether they were made

between contracting parties or whether made with respect to land retained or sold.

Recent cases take divergent approaches to this question, and the law will remain unclear until the courts rule further on the issue of enforceability of any such provisions.

5.4 Life Leasing Agreements

A life lease is a rental agreement which entitles seniors the right to occupy a unit for the rest of their lives in exchange for the payment of a lump sum. Life leases are usually terminated by the death of the tenant (or in the case of a couple by the death of the last surviving spouse) or at the option of the tenant, upon giving a specific amount of notice.

At termination an amount is usually reimbursed. This amount is determined by a method included in the lease documentation. The nature of redemption formulas is what distinguishes life-lease agreements. The redemption formulas in the various projects reviewed vary from declining balances, where the amount returned to the senior is inversely related with time, through to agreements which utilize appraisal or various proxy statistics to attempt to determine a market value, which is then returned to the senior.

In addition to the initial lump sum payment, the residents are also responsible for monthly payments, similar to condominium fees, which pass on the sponsors operating costs, usually including property taxes, utilities, maintenance, and replacement reserves.

The project sponsor clearly retains control of the life lease project because it maintains ownership. Many of the life lease projects, as are many non-profit rental buildings, are managed so as to respect certain cultural preferences. Most life lease contracts in Ontario have provisions restricting the tenant's right to sublet his/her unit. This allows the sponsor to retain control over the characteristics of the tenants in the building over the duration of the lease. Most leases also have provisions which allow the project sponsor to terminate the lease if the health of the tenant deteriorates to such a point that the senior is no longer capable of independent living.

A major concern of all life leasing agreements is that the projects generally pay higher property taxes than

similar condominium projects, since they are assessed in most jurisdictions as rental properties.

Types of Life Lease Agreements

One of the major characteristics with regards to how life-leases vary is how any refund at the conclusion of the occupancy is determined. Examples of projects exist which return anything from nothing to full market value at the time of the redemption of the unit. These models are explained in this section.

With reference to the study project, these alternatives offer ways of reducing the initial cost of the unit to the senior, by offsetting initial cost against the amount to be paid at redemption. Exhibit 5-3 shows five alternative arrangements in table form, and Exhibit 5-4 in graph form. An occupancy of twelve years has been assumed, together with a cost of capital of twelve percent for the difference between the unit cost and the amount the tenant paid initially. This shows that it is possible to offer units at reduced price according to the refund offered. For example, if no monies are refunded, the senior need only invest 50.9 percent of the unit price. Similarly, if the senior receives back the 95% of the market price of the unit upon termination of the lease, no reduction is possible.

a) **Zero Balance Lease (also known as Pure Life Tenancy)**

The redemption value of the zero balance life-lease reduces to zero upon death of the lease holder or the last surviving spouse. The size of the rent prepayment is based on the market value of the dwelling unit, and on the age, sex and marital status of senior. A zero balance life lease may not provide the tenant with the option of terminating the agreement voluntarily.

The main advantage of this form of life tenancy is that it can enable the senior to secure tenancy for life at a substantially reduced cost (as compared to outright purchase). The rent repayment of a zero balance life tenancy can be 50 to 70 percent of the cost of purchasing a similar unit outright.

The main disadvantage is the risk to the estate if the senior dies soon after signing the tenancy agreement. Unless there are provisions in the tenancy agreement

for partial prepayment in case of early death, the entire rent prepayment would be lost.

A major problem of the zero balance life-lease for the project sponsor is in setting the price of the lease. Although detailed actuarial data exists on the life expectancy of seniors, the actual life expectancy of seniors in a zero balance life-lease project is difficult to determine. Seniors who expect to live longer than the statistical average would more likely be attracted to a project with this type of life-lease than those who feel weaker and closer to death.

Projects having zero balance life-lease agreements operate in the United Kingdom, but there are no examples of such projects in Canada.

b) **Life Lease with a Redemption Value based on a Declining Balance**

A few projects in Ontario have life-leasing agreements where the redemption value of lease decreases by equal amounts over a period of time. Usually the redemption value of the lease reduces to zero in twenty years. The rent prepayment is set by the project sponsor and is usually based on the cost of the unit only. The senior retains the right to occupy the unit, even after the redemption value of the lease falls to zero.

The major advantage of this form of life-lease is that it gives the senior tenure for life at a reduced cost and in most cases returns to the senior (or his/her estate) a portion of the rent prepayment at the end of the tenancy. The rent prepayment can be 70 to 90 percent of the cost of purchasing a similar unit outright.

The primary problem with this form of agreement is that the redemption formula does not provide inflation protection to the senior (or the estate). This becomes an even greater concern during periods of high inflation.

The Nithview Seniors Village in New Hamburg and St. Elizabeth Village in Hamilton are examples of life-lease seniors projects in Ontario that use this type of redemption formula.

c) Life Lease with No Gain at the Time of Redemption

Although there are no such projects in Ontario, it is possible to develop a life-lease agreement where the redemption value remains constant over time. This form of financing agreement also offers the senior tenure for life at reduced cost, although the savings are not as great as the previous two options. It also offers the senior the flexibility of being able to withdraw the entire initial investment if their requirements or priorities change. Like the declining balance formula, the primary problem with the form of agreement is that it does not provide inflation protection.

d) Life Lease with a Redemption Formula Based on the Market Value of the Unit.

This is now the most common form of life-lease used by new resident-financed seniors projects in Ontario. As with other life-lease forms the tenant purchases a life-lease for a unit from the project sponsor. When the tenant dies or leaves the project for any reason, the lease is redeemed by the project sponsor.

The age of the senior has no effect on the size of the rent prepayment. The redemption value of the lease is usually based on the resale price of the lease of the unit. The tenant (or the estate) receives an amount which ranges from ninety to ninety-nine percent of the resale price of the unit. The project sponsor retains the remaining amount for administrative expenses, and to refurbish the unit. The redemption value of the lease is based on the market value of the unit which may be determined by the project sponsor, by a committee, or by an independent real estate appraiser.

This type of life-leasing agreement has been found to be particularly popular in Ontario because it offers the security of life tenure and the opportunity for the senior (or the estate) to benefit from appreciation of the value of the dwelling.

The major drawback of this tenure form is that it does not offer the senior any savings on entry cost over condominium ownership. The senior is paying the costs of ownership but does not get the full rights of ownership such as the right to mortgage the unit.

This form of lease minimizes the financial risk to the project sponsor with respect to the redemptions of leases. Since the redemption value of the lease is based on the resale price, there is no financial risk

to the project sponsor in having to redeem a unit for more than its selling price, even should the market price fall.

Life-leases with redemption value based on the market value of the unit pose certain difficulties for implementation by non-profit sponsors. New units in projects sponsored by non-profit groups are generally priced below market value, because the groups, in the context of their social concern for creating affordable housing, do not generally include an entrepreneurial profit into the price of the unit. The real 'market' price of a unit, within the open market, may include a 10-20% profit for the entrepreneurial project developer. When the life lease is redeemed, the senior who was the first purchaser of the unit (or the estate) receives, in addition to his/her initial investment, the appreciation of the unit's value, and the entrepreneurial developer's profit. The savings made by developing the project as non-profit are retained by the first lease-holder and are not passed on to the project sponsor or subsequent tenants.

Wyndham Gardens in Unionville and The Elridge in Guelph are examples of life-lease seniors projects in Ontario, that base the redemption value of the lease on the market value of the unit.

e) **Life Lease with the Redemption Value based on a Price Index**

The redemption value of this type of life-lease is an increasing amount, which is based on some available statistical figure which acts as the proxy for the replacement value of the unit. As in the other forms of life-leases the tenant purchases the lease from the project sponsor. Upon the death of the tenant or termination of the lease, the tenant receives the full amount of the original lease prepayment plus a return proportional to a predefined price index. The resale price of the lease to subsequent tenants may also be based on the price index, which preserves the initial affordability.

The price index should take into consideration the inflation rate, the replacement cost of the project and local housing market factors. It can be based on a combination of the local Consumer Price Index, the Consumer Housing Price Index and any other applicable criteria.

In addition to providing the senior the security of the tenure for life, this redemption model protects the senior's equity from inflation. The major drawback of this form of life-lease for the senior is that it usually does not offer any savings to the senior on entry cost over condominium ownership.

This form of tenure allows the project sponsor to retain the financial benefits of the non-profit development and to pass them on to the present and subsequent tenants in the project. The other advantage of projects in which the redemption payment is tied to a defined index or indices, is that the amount is not subject to discussion by the senior, or the estate, as it is clearly defined in the lease documentation.

There is a potential risk to the project sponsor that the market value of the units may decline below the redemption value of the lease. Most sponsors are protected against this possibility by including provisions in the leasing agreements that the redemption value cannot exceed the market value of the unit.

Suomi-Koti in Toronto and Parkview Village in Stouffville are examples of life-lease seniors projects in Ontario, that base the redemption value of the lease on price indexes.

Legal Concerns with Regards to Life Leases

The Planning Act, R.S.O. 1980, as amended, prohibits the conveying or granting of a use of or right in land directly or by entitlement to renewal for a period of twenty-one years or more, unless there is compliance with subdivision control. However, section 49(9) states that nothing prohibits the entering into of an agreement, such as a lease, that has the effect of granting the use of or right to part of a building for any period of years. Life-lease projects that were developed prior to the enactment of the current planning legislation limited the term of lease to 21 years less a day. This was in order to avoid sub-division control and were unable to give the senior a firm commitment to renewal beyond that period. Section 49(9) may enable new life-lease projects to offer longer commitments, including renewals, which is a major concern to a tenant, particularly as the earlier projects also tended to have declining balance formulas for unit redemption.

One anomaly of the life-lease is that while it is a contractual agreement, the lessee acquires a legal entitlement akin to a freehold interest. For example, a contractual lease for life at a set rent does not differ from an estate for life created by a settlement, that is, a freehold created by statute such as in British law and in some of the western provinces. Such estates for life are of limited duration and are followed by an estate in remainder. The enjoyment of the life tenant is curtailed over that of a pure freehold interest. For example, although a life tenant is entitled to actual possession and enjoyment he or she remains in the position of a quasi-trustee vis-a-vis the remainderman (project sponsor). Therefore, he or she must pay taxes, undertake repairs as required, and cannot commit waste to the property. Moreover, since a life-lease is limited, so are the powers of alienation. Generally, the life tenant can only dispose of the interest that he or she has for the duration of his or her life. Similarly, a mortgage, encumbrance, or further lease, can affect only the life estate and must terminate with the death of the life tenant.

This unusual "hybrid" may, therefore, create some problems under the Planning Act: whether it is determined to be a "right in land" as a freehold interest under Section 49(3), or a contractual agreement granting the use of part of a building under Section 49(9). Case law is unclear as to whether this arrangement does or does not comply with subdivision control.

Similarly, it is questionable whether such a life interest would attract Land Transfer Tax upon registration of the agreement. Pursuant to the Land Transfer Tax Act, R.S.O. 1980, c.231 as amended, section 1(p)(iii) states that a transfer of interest under a lease is not exempt from tax based on the fair market value of the land to which the lease extends except by virtue of subsection 4. Section 1(4) then exempts tax on the lease of land if the lease, at the time of tendering for registration, is for an unexpired term which, including extensions and renewals cannot exceed 50 years. As a life-lease sets the end of term as the date of death of the senior, it could well be that such a lease could be construed to be capable of exceeding 50 years and hence, taxable. In this sense, it is arguable that such a term is commensurate with a freehold interest. This latter argument may well be strengthened by the provisions of the Land Titles Act, R.S.O. 1980, c230, as amended, which provides for the

opening of a separate register and the registration of leasehold land where the unexpired term and renewals amount to at least 21 years. "Land" is defined under this Act as including a leasehold interest or estate.

Life-lease agreements may, as well, be subject to the Landlord and Tenant Act, R.S.O. 1980, c232, as amended. As has been discussed earlier, this Act may severely restrict the project sponsor's ability to enforce occupancy by seniors only and to restrain the right of alienation. The life tenant could therefore continually sublet the unit for the rest of his or her life to whomever he or she chooses. However, a contrary position can be argued: that a lease for life, although a tenancy at common law, may not be a tenancy within the meaning of residential tenancy legislation, where that legislation defines a tenancy as being exclusive occupation for a term that may be terminated by the landlord or tenant only in accordance with the provisions of the legislation. To date, there appears to be only one case where residential tenancy legislation (in Saskatchewan) was considered in light of a life tenancy. The courts held that where there was no express right of termination in the tenancy for life, the tenancy did not fall within the statutory definition. Again, the law on the point is not settled.

It is also likely that a life-lease project may be subject to the Rental Housing Protection Act, S.O. 1989, c.31, as already discussed. The Act severely limits the flexibility of the project sponsor to change residential rental units to other forms of tenure such as co-operatives or condominiums. This prohibition may well apply to a conversion to life-leases.

Although, again not clear, it is also possible that the monthly maintenance fee in a life-lease project could be subject to the Residential Rent Regulation Act, S.O. 1989, c31. Rent is very broadly defined as the amount of any consideration required to be paid to a landlord for the right to occupy a rental unit and for services and facilities that the landlord provides for the tenant in respect of their occupancy of the unit, whether or not a separate charge is made for such services. It appears that the monthly maintenance fees which in life lease projects represent the pass-through of taxes, utilities, and maintenance, may be defined as rent by the Act. However, if the argument, previously discussed, under the Landlord and Tenant Act was successful, and a life lease did not constitute a tenancy under that legislation, it would be difficult

to then apply the Residential Rent Regulation Act. In any event, regardless of the outcome of such an argument, many of the sponsors of these projects are religious organizations, so exemption from rent controls is possible on that basis.

As has been discussed, it will remain unclear how life-leases are treated under law, until the courts determine the issues raised. It is fair to say that while life-leases are recognized in law, and may be theoretically possible, their functional security at law may be impractical in the context of providing seniors housing in this particular setting.

Additionally, it is to be pointed out that while pure life-lease arrangements exist in the United Kingdom, they do so in a well-established tenure of land with accompanying substantive rights. Moreover, legislation provides for life-leases under the Settled Land Act of 1925 and the Leasehold Reform Act of 1967, both of which give statutory protection to the life tenant, and prescribe the legal consequences arising from such a tenure. The terms of acquisition which include redemption are governed by the Housing Act of 1974. It is also unusual that life-leases are excluded from the Rent Act. It must be pointed out that no such legislative framework exists in Ontario to guide the creation of life-lease arrangements and be determinative of the issues raised herein.

Legal Implications of the Failure of a Life-Lease Project for the Senior and the Project Sponsor

It appears that in Ontario, no operating life-lease project has failed financially. However, as with any venture, the possibility of this event exists. As such, it requires further study, especially considering the possibility of compromising the seniors' rights to remain in possession of the residential units, and to receive the value by way of redemption payment due at the end of the life-lease.

If the project sponsor were to become insolvent, the administration of the property would rest with a receiver. However, receivership cannot be maintained indefinitely. Normally, the assets of the project sponsor would be placed on the open market in the hope of attracting a purchaser for fair market value. The seniors' rights to possession of the residential unit would appear to continue during the period of receivership. Should a ready purchaser be found, in

all likelihood the seniors' interests would remain secure.

Realistically, however, there may be no market for this type of project. It could therefore be conceivable that the receiver would take steps to terminate the life-leases, thus enabling the lands and buildings to be sold for other uses, such as for conversion to condominium units. This course of action is not without its impediment. Specifically, the success or failure of such action hinges on the ability of the receiver to obtain approval under Section 4 of the Rental Housing Protection Act, S.O. 1989, c31, prior to giving a valid notice of termination under Section 107 of the Landlord and Tenant Act, R.S.O. 1980, c.232, as amended. If it was possible to terminate the life-leases, and it is not at all clear that a receiver could succeed, the issue of satisfaction of the redemption payments would still remain to be dealt with. It is questionable whether such value could be calculated an assigned a monetary value prior to the termination date contemplated in the life-lease. Even if the value could be determined and secured against the proceeds of sale of the lands and buildings, the cost of the court actions, together with the maintenance and upkeep costs of the project, could substantially reduce the net proceeds of sale to such a degree as to make satisfaction in part or in whole impossible. Should there be existing mortgages, encumbrances, or liens in priority, the net proceeds of sale would be further reduced.

The discussion, to this point, has assumed life-leases to be contractual rights. As has been pointed out, the anomaly of the life-lease raises the question as to whether it is a "right in land" as a freehold interest, or a contractual agreement granting the use of part of a building. Should the courts determine that it is a freehold interest, the marketability of the project might well be further reduced, and the determination of rights more complex.

It would appear that outright purchase by the government, or at least the offer of government funding, to enable a suitable purchaser to be found, might be the only realistic avenue open to maintain the interests at stake.

The American Experience

Several American projects attempted to address seniors' concerns of long term accommodation and health care expenses. In the American projects, the senior received in exchange for a lump sump prepayment, tenure for life of a retirement dwelling and the promise of long-term health care, should it be required. If the senior died or left the project for any reason, the prepayment was redeemed on a declining balance.

The amount of the prepayment was based on actuarial data. Using this data, the project sponsor attempted to balance the sale and redemption of retirement dwellings with the expected demand for care services.

This type of agreement was popular among many American seniors concerned about paying housing and health care expenses in their later years. The United States, unlike Canada, lacks a universal health care program to provide long-term care for seniors.

In most cases, the American projects were unable to fulfil their care promises because actual demand for health care exceeded the actuarial predications. In retrospect, it appeared that seniors attracted to the American projects were those who expected to need long-term care.

In Canada, because long-term health care for seniors is financed by the government, there is no interest in this form of financing vehicle. Several life-tenure projects which are affiliated with Homes for the Aged offer those seniors who are tenants preference in obtaining care.

5.5 Loan Stock Arrangements

Loan stock arrangements are a form of tenure which combine the benefits of life-leasing with the technical security of ownership.

With a loan stock arrangement, the senior makes an interest free loan to the sponsor of the housing project. The amount of the loan is set by the project sponsor and is usually equal to a portion of the value of the dwelling that the senior chooses to occupy. In return for the loan, the senior is entitled to occupy the dwelling for the rest of his or her life. If the senior dies or if he/she chooses to leave the project

for any reason the interest free loan is reimbursed to the senior or to the estate.

It should be noted that the standard loan stock agreement is no different than a life-lease with no gain at redemption with respect to the financial implications for the senior. The main distinction between life-leases and loan stock agreements are legal.

An additional bonus can be paid to the senior or to the estate when the loan is reimbursed. This bonus would provide inflation protection for the senior and could be based on the appreciation of the market value of the senior's unit or on the Canadian Consumer Price Index. Financially, these agreements are similar to life-leases where the redemption value is based on the market value of the unit or on a price index.

Legal Concerns

Non-statutory arrangements have been expressly restricted by the Residential Complex Sales Representation Act, S.O. 1983, c.67, which prohibits the selling of an interest in a residential complex to a purchaser who is led to believe that he or she is also acquiring the present or future right to occupy a dwelling unit or exclusive ownership of a dwelling unit, if that is not the case. This Act was designed to avoid the situation where a person, desiring to live in a building purchases an ownership interest, and thus becomes an owner-in-common with every other such person. While such restrictions appear to be absolute, however it is arguable that this Act contemplates accurate disclosure, and not a prohibition. Notwithstanding its universality, the Act specifically exempts condominiums and co-operative corporations (sec. 3 and 4).

Whether such legislation will be interpreted to rule out loan stock arrangements remains to be seen. However, the clearer the contractual nature of this arrangement, the less likely it may be in conflict with the Act. In this sense, the loan stock arrangement, in its simplest form, constitutes a promise by the project sponsor to repay the loan upon certain terms and conditions. The remedy for the senior or his or her estate, upon default by the project sponsor, would be to sue on the promise to pay. The difficulty lies in the fact that the loan is unsecured. If the seniors foreclose on the project, it is possible that the

project may have to be sold to repay the seniors. Although the seniors' investment would be protected, they may have to give up occupancy of their unit to close the sale of the building and reclaim their investment.

Although the Land Titles Act, R.S.O. 1980, c.230, as amended, renders it difficult for a group of individuals to hold a charge (mortgage) on a property, an association of seniors may be established into which each senior would invest the amount of his or her loan to the project sponsor. The association would then lend its investment monies, interest free, to the project sponsor, which loan would be secured by way of a charge registered against the property. This method may create additional security for the seniors involved as a priority is established, should the property be sold upon the financial failure of the project sponsor. The end result, however, may be that the individual seniors receive their repayment, while losing their residential accommodation in the process. Certainly , if a willing purchaser could be found to assume the mortgage, the contractual nature of the relationship might be preserved. Whether the loan stock arrangement provides greater technical security for the seniors' investment than a life lease is difficult to determine. Additionally, whether this arrangement may be construed as a life lease with its own problematic concerns, as previously discussed, remains unknown.

5.6 Shared Equity Arrangements

Shared equity arrangements are tenure agreements which combine the concepts of rent and ownership. Under these agreements, the senior purchases only a portion of the equity in their unit. Usually a project sponsor provides the senior a range of equity options for the unit. Seniors are able to purchase what they can afford.

The project sponsor retains the remainder of the equity and charges the senior a portion of the market rent for the unit. The rent paid by the senior is proportional to the equity outstanding on the unit. In addition, the senior would also be responsible to pay a monthly fee to cover the occupancy costs of the project.

Under this model, the seniors would retain most of the rights of ownership. They can live in the unit for as long as they wish, and generally have the right to sublet the unit to whomever they please. The senior,

or their estate, would be able to sell their share in the unit whenever they wish. Generally, units are sold through the project sponsor. The senior would receive their original investment, plus their share of the appreciation of the market value of the unit.

Shared equity arrangements are attractive for seniors who may not be able to afford the outright purchase of a unit. The arrangements can be flexible, allowing seniors to purchase the level of equity that they can afford.

Shared equity arrangements may not be financially feasible for the non-profit project sponsors in mosts parts of Ontario. As with monthly rental agreements, the debt service related to the capital financing of the project, may make the resulting economic rent higher than market rents for comparable units.

Legal Concerns

It is uncertain how a shared equity unit would be defined under Ontario law. This form takes its origin from the United Kingdom concept of trust-form co-operatives at common law, in which the project sponsor, as trustee, holds a unit in trust for each unit holder, the unit holder purchasing a portion of the equity of the unit. Shared equity arrangements are distinguishable from ownership in common of land; in the latter, the owners hold an undivided interest in the property together with all other owners.

As with the loan stock arrangement, attention must be paid to the Residential Complex Sales Representation Act, S.O. 1983, c.67, as previously discussed. While equity co-operatives exist in Ontario, this form of interest in land falls within the exemption of this Act and the Rental Housing Protection Act, S.O. 1989, c.31. Whether the legislation renders shared equity arrangements potentially voidable remains to be interpreted by the courts.

Likewise, the security of the senior in a trust relationship with the project sponsor remains to be determined. To date, little commentary has been written on shared equity arrangements.

5.7 Condominiums Leased for Life to Seniors

A condominium corporation can be formed with the project sponsor retaining title to some or all of the units and utilizing life-leases to seniors.

This ownership model is particularly effective if the project sponsor wishes to provide a mixture of tenure forms in the building. The model allows for the inclusion of privately owned dwellings (which can be owner-occupied or rented-out) and for units which can be rented or leased by the project sponsor. The project sponsor can use any of the previously discussed life-lease or loan stock arrangements with this ownership model.

Advantages and Disadvantages for the Senior

For a senior living in a life-lease unit, this ownership model has all the advantages and disadvantages of the appropriate life-lease agreement previously discussed.

The senior who wishes to purchase an individual condominium in a building where the majority of the units are owned by the project sponsor, will have the confidence that the sponsor will maintain the social character of the project. The major concern for the senior could be a lack of control of the project due to the minority position in the condominium corporation.

Advantages and Disadvantages for the Project Sponsor

The lease-hold condominium model allows the project sponsor to maintain control over the seniors project without having complete ownership.

In addition to allowing a mixture of tenancy forms, this model also provides the project sponsor the flexibility to sell (or repurchase) units over time. This can be an attractive option for the project sponsor that may wish to change its direction regarding social housing in the future.

Legal Concerns

Condominiums in Ontario are a relatively new development in property law, and are governed by the comprehensive Condominium Act, R.S.O.1980, c.84, as amended. While the Act does not define the word "condominium", the term is generally understood to mean a property scheme whereby part of the property is

divided into individually owned units, and the remaining property is owned by the unit owners in common. "Condominium" also refers to a management body, a corporation, which enables unit owners to participate in the management of their property. The benefits of condominium ownership are: the ownership of the land is freehold; the common elements are owned by all unit owners as owners in common; each unit owner may mortgage his or her unit; tax collection and assessment is against the individual unit; and, there is enforcement of positive obligations amongst the unit holders.

Land comes under the governance of the Act, upon registration of the description (plans and diagrams describing the property), and the declaration which discloses the composition of the units. The latter also sets out provisions regarding the use and occupation of units, and restrictions on leases and sales of the units.

Due to the financing of many condominium projects, units are sold prior to the registration of the description and declaration, and hence before the condominium is created. Such interim occupancy between developer and purchaser is construed as a landlord and tenant relationship. As such, problems are created with rent control legislation and the comprehensive scheme of rights and obligations under the Landlord and Tenant Act. As case law is divided over the issue of the creation of a landlord and tenant relationship during interim occupancy, there remains no satisfactory interpretation or scheme for dealing with interim occupancy.

The Act, however, expressly prohibits the developer itself from marketing the units as rental units to the general public. Section 54 prohibits the developer from granting a lease, unless the lease carries with it an agreement or option to purchase the unit, but in no case is the lease and renewals to extend beyond two years. Non-profit developers wishing to maintain a portion of the units as rental units have overcome this obstacle by selling the completed unit(s) to a related corporation, which in turn rents out or leases the unit(s). Caution is to be exercised, however, during the interim occupancy period. The related corporation, which as purchaser becomes a tenant of a unit under an interim occupancy agreement should be aware that Section 51(7)(d) permits the project developer to withhold consent to an assignment of the occupancy agreement. Thus, unless the occupancy agreement

specifically states that consent to an assignment is not to be unreasonably withheld, the related corporation as lessee may not be protected in the same manner as a residential tenant is protected by the Landlord and Tenant Act vis-a-vis subletting. Consequently, the related corporation may be frustrated in its attempts to lease and commence its necessary financial arrangements. Additionally, care should be exercised in the Agreement of Purchase and Sale that there is no requirement that a unit be occupied by the purchaser until the mortgage monies are fully advanced to the vendor, and, that there is no prohibition on encumbering, transferring, or selling the unit until the vendor receives his or her mortgage money. Aside from these restrictions, there is nothing from preventing a unit owner from leasing out his or her unit. Although Section 3(3)(c) of the Act provides that a declaration may restrict leases and sales, case law is clear that an owner's right of alienation cannot be prohibited. Therefore, leases of any term, including life-leases are upheld.

At this point, the comments concerning life leases under Part 4.4 of this report are applicable, with the exception that the Planning Act problem does not exist, as condominiums, by their descriptions, comply with that Act. As well, the discussion concerning freehold condominiums and restrictive provisions in Part 4.3 is applicable.

There are several issues which remain unclear with respect to condominium units leased under life lease arrangements.

In the absence of a clear provision in the condominium legislation, there may be some doubt as to whether the condominium corporation, or the unit owners, are the occupiers for determining liability for injuries sustained on common property. Indeed, the issue becomes even less clear, if a senior, under a life lease with a non-profit sponsor, could be deemed to be an occupier. While Section 7(12) deems owners not to be occupiers of common property, the Act did not contemplate life leasing arrangements. This issue will require future interpretation.

Additionally, Section 22 provides one vote per unit. While it may be contemplated that the non-profit owner of the units retains the vote as a means of exercising control, consideration should be given to the issue of whether or not a life lease, if construed as a "right in land" and not as a contractual right, might be

vested with the vote over the related non-profit unit owner. Although an irrevocable proxy in favour of the related non-profit corporation may resolve the question, case law has held that an irrevocable proxy of a condominium owner's voting rights is invalid. Additionally, a reservation of voting rights of the unit owner in favour of the developer in a transfer (deed) was ruled to be invalid. The validity of provisions relating to life leases and voting rights is uncertain until the courts rule on the issue of enforceability of any such provision.

Further, Section 49(2) and (4) in combination allow the court to direct the lessee of a unit owner to perform any duty imposed by the legislation, the condominium declaration, by-laws, and rules. These provisions appear to broaden the powers of a landlord who is a unit owner to terminate the lease for cause. Under the Landlord and Tenant Act, breach of "house" rules does not fall within the eight causes allowing the landlord to terminate the lease before the end of term. Again, this point will require future interpretation, especially if the life lease is construed to be a "right in law', as opposed to a contractual relationship.

Lastly, the security of the redemption payment may be questionable if the related non-profit company becomes insolvent, and as well, should the condominium be terminated under the provisions of the Act. While leases applicable to individual units are not extinguished, the legislation has no provision for ongoing management functions upon termination, nor are there guidelines to aid the condominium corporation due to insolvency. The rights of owners to remain in occupation of their units are unclear as well as the remedies of mortgagees. One alternative may be to apply to the court for an order for termination, settling of priorities and interests, and vesting of each unit with the owner. However, further interpretation by the courts will be necessary to clarify these issues.

A potential alternative to condominium units leased for life to seniors may lie in the property concept of "owners in common". A well established concept at common law, it is already utilized by the Condominium Act with respect to the common elements. Common elements are owned, in freehold, by all unit holders in proportionate interests. It may be that the related non-profit corporation sponsoring the project, may own the units as owner in common with the seniors in

freehold. One alternative might be to hold the unit, in proportionate shares in accordance with the proportion of monies contributed by the senior to the purchase price of the unit. Since the senior owns a proportionate interest in the unit outright, there is no requirement for a redemption payment, nor would the issues surrounding landlord and tenant relationships and governing legislation be brought into play. The acquisition of the senior's interest upon death (there being no right of survivorship in ownership in common), the issue of voting, rights of first refusal by the non-profit sponsor should the senior wish to move, and similar matters might be handled by contract at the time of purchase. Care and clarity would be essential in such agreements, to avoid the necessity of referring issues between the non-profit sponsor and the senior's estate for determination by the courts. Ownership in common may satisfy the requirements of both the senior and the project sponsor, offering an alternative for social housing in the future.

EXHIBIT 5-1

Types of Possible Returns From Seniors' Initial Investment in Resident-Financed Retirement Projects

LEGAL STRUCTURE	FINANCIAL STRUCTURE: No Initial Investment	Full Market Appreciation	Part of Market Appreciation	Return Based on an Inflation Index	Return of Original Investment Only	Return Based on a Declining Balance	No Return of Investment
Monthly Rental Agreements	■						
Freehold Condominiums		■					
Life-lease Agreements			■	■	■	■	■
Loan Stock Arrangements			■	■	■		
Shared Equity			■				

EXHIBIT 5-2

Comparison of Tenure Forms

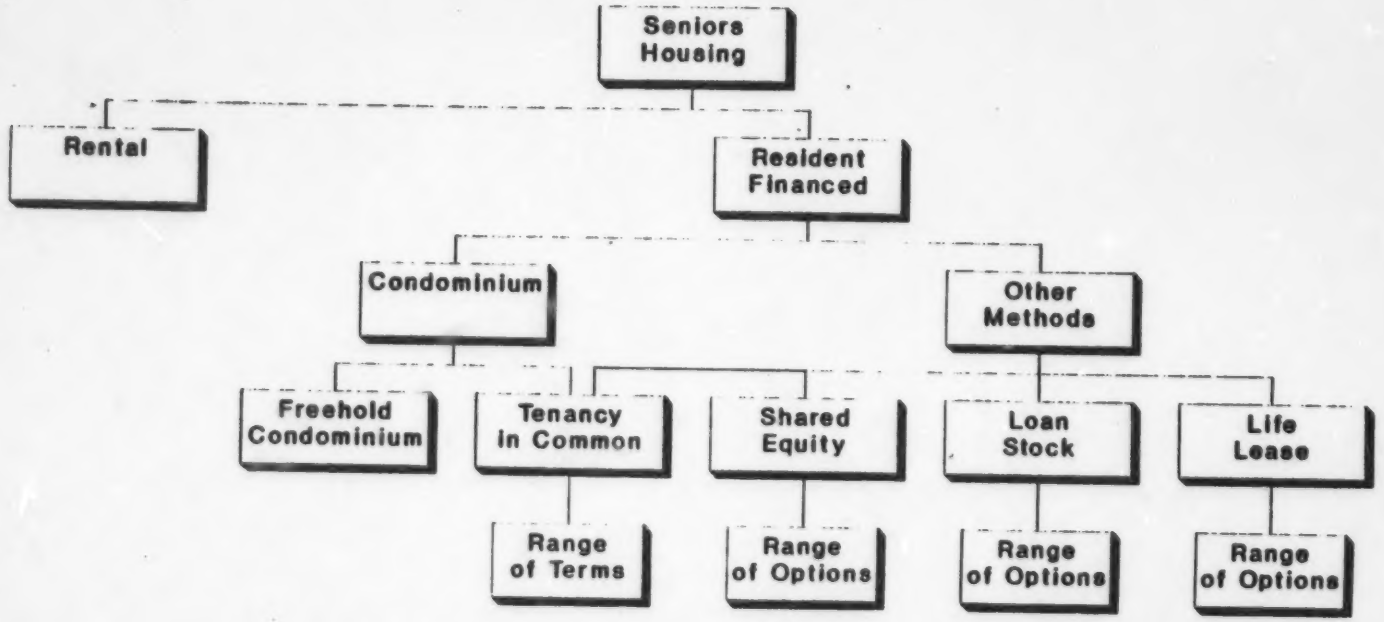


EXHIBIT 5-3

Example of the Effect of the Redemption Formulas on Life-Leases

Price of dwelling in year 0 – Includes project cost and surplus	$134,400
Expected length of tenure by senior	12 years
Cost of capital for the project sponsor	12%
Term length of declining balance redemption	20 years
Annual rise of the market value of dwelling	6%
Annual change in CPI	5%
Cost to project sponsor of recycling unit	5% of market value
Service charge to the tenant to redeem unit (applies only to CPI and Market Value Redemption Formulas)	5% of market value

		Zero Balance	Declining balance	No Gain at Redemption	Return at 95% CPI	Return at 95% Market
Price of Unit		$134,400	$134,400	$134,400	$134,400	$134,400
Financing Required		$65,944	$58,112	$42,306	$12,613	$0
Rent Prepayment		$68,456	$76,288	$92,094	$121,787	$134,400
Redemption to the Senior Upon Leaving the Project	Year 1	0	72,474	92,094	121,482	135,341
	2	0	68,659	92,094	127,556	143,461
	3	0	64,845	92,094	133,934	152,069
	4	0	61,031	92,094	140,631	161,193
	5	0	57,216	92,094	147,662	170,865
	6	0	53,402	92,094	155,045	181,117
	7	0	49,587	92,094	162,798	191,984
	8	0	45,773	92,094	170,938	203,503
	9	0	41,959	92,094	179,484	215,713
	10	0	38,144	92,094	188,459	228,655
	11	0	34,330	92,094	197,882	242,375
	12	0	30,515	92,094	207,776	256,917
	13	0	26,701	92,094	218,164	272,332
	14	0	22,886	92,094	229,073	288,672
	15	0	19,072	92,094	240,526	305,993
	16	0	15,258	92,094	252,553	324,352
	17	0	11,443	92,094	265,180	343,813
	18	0	7,629	92,094	278,439	364,442
	19	0	3,814	92,094	292,361	386,309
	20	0	0	92,094	306,979	409,487
	21	0	0	92,094	322,328	434,056
	22	0	0	92,094	338,445	460,100
	23	0	0	92,094	355,367	487,706
	24	0	0	92,094	373,135	516,968
	25	0	0	92,094	391,792	547,986

Notes for the Calculations of Exhibit 5-3

Exhibit 5-3 develops the financial alternatives which may be offered to the seniors market. The question addressed is:

> 'how much would a knowledgeable senior pay for a unit given alternative financial methods?'

The methods explored for the hypothetical project were:

(a) A 'Zero Balance' return or 'pure' life lease, in which the senior receives nothing when the unit is vacated;

(b) A declining balance formula, where each year, less is returned to the senior or their estate, until after the twentieth year when there is no return;

(c) A formula where the senior receives their original payment back, no matter when they leave;

(d) A return which is linked to the Consumer Price Index, so the leaving senior receives 95% of the C.P.I. adjusted unit value;

(e) A return which is linked to the local house price index. This return is a model of conventional condominium ownership and resale of a unit. This is the only market driven mechanism developed; both the house-price linked and the C.P.I. linked methods have a significant element of uncertainty about final unit redemption amount.

Calculations were performed to reach a selling price whereby the senior, living in the unit for 12 years would, on a financial basis, be indifferent to the various redemption options.

These numbers are samples only; different assumptions could be used by different sponsoring organizations, relating to expected duration of occupancy of the unit, the cost of capital used, future increases of C.P.I. and market prices, and the propensity of any group of seniors to think in accordance with such a financial model.

The details of the calculations are included.

The values for current "Financing Requirements per Unit" and "Rent Prepayment per Unit" were calculated based on the following assumptions:

- The expected length of tenure by the senior is 12 years (ie. an average unit will be recycled once every 12 years).

- The annual cost of capital is 12%.

- The redemption value for a declining balance life-lease is based on a term length of 20 years.

- The market value of the dwelling is expected to increase by 6% per annum

- The cost to the project sponsor of recycling the unit is expected to be 5% of the market value of the unit (in the year in which it is recycled)

- The redemption value of a life-lease base on the market value of the unit or the Consumer Price index includes a service charge to redeem the unit. This service charge is 5% of the market value of the unit in the year in which the unit is redeemed.

In most cases, iteration is required to reach the solution.

Financing Requirements per unit = [(Market Value in 12 years) - (Recycle cost in 12 years) - (Redemption Value of Lease in 12 years)] / [(1 + annual cost of capital)^12]

Rent Prepayment per unit = (Price of Unit at time 0) - (Financing Requirements per unit at time 0)

where:

Market Value of Unit:
in n years = (Price of Unit at Time 0) X (1+1.06)^n
in 12 years = (134,400) X (1.06)^12
= $270,440

Recycle Cost of Unit:
in n years = (Market Price of Unit at time t) X 5%
in 12 years = $270,440 X 5%
= $13,522

Redemption Value of Leases

(a) Zero Balance Lease The lease has no redemption value

(b) Life-Lease with a redemption value based on a declining value of 20 years

in n years = (Rent Prepayment of Unit) X (20-n)/20
in 12 years = (76,288) X (20-12)/20
= $30,515
This must be solved by iteration to reach the amounts of the redemption value and of the rent prepayment.

(c) Life-Lease with no gain at redemption

in n years = (Rent Prepayment of Unit)
in 12 years = (Rent Prepayment of Unit)
= $92,094
This must be solved by iteration to reach the amounts of the redemption value and of the rent prepayment.

(d) Life-Lease with a Redemption Formula based on the Consumer Price Index (less a 5% charge)

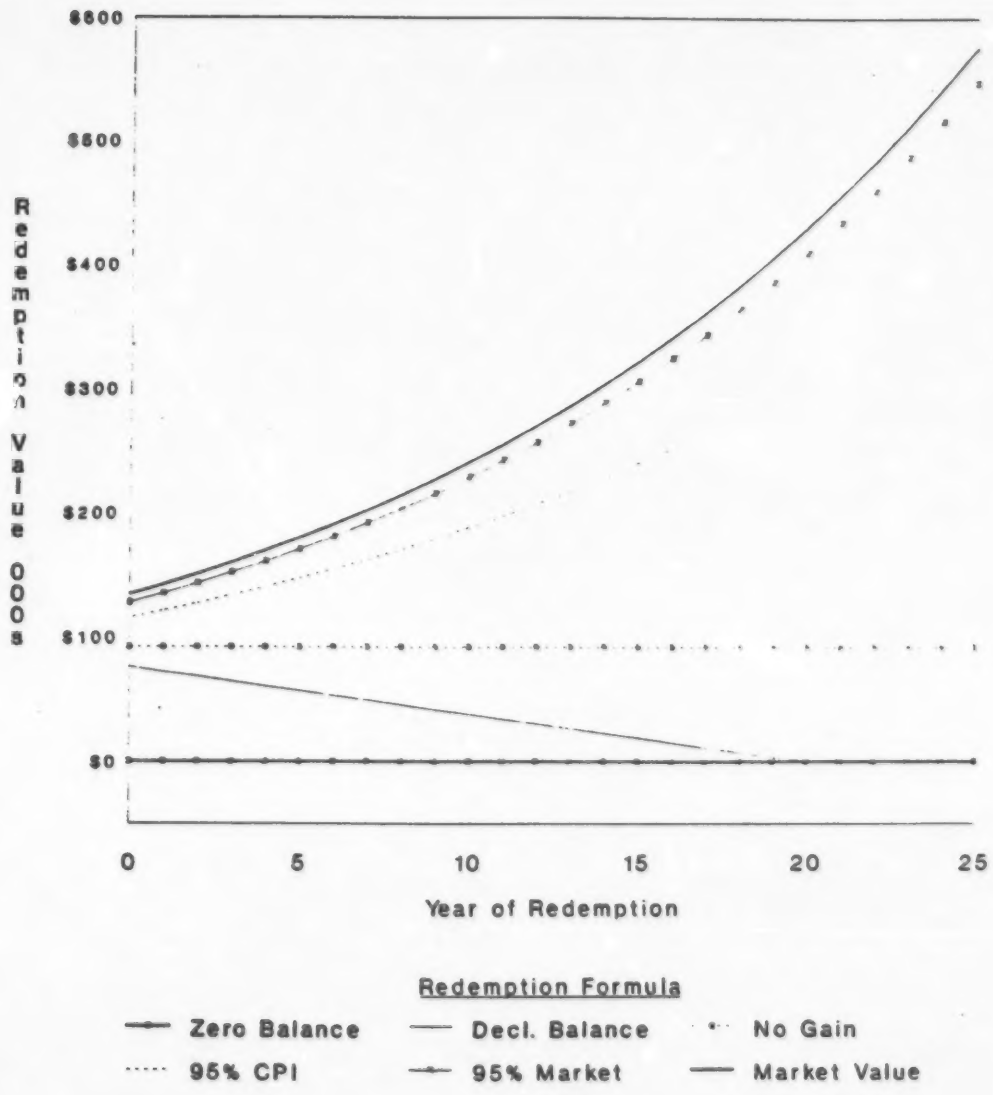
in n years = (Rent Prepayment) X [(1+average annual change in the C.P.I.)^n] X (1-service charge)
in 12 years = (121,787) X [(1+0.06)^12] X (1-0.05)
= $207,776
This must be solved by iteration to reach the amounts of the redemption value and of the rent prepayment.

(e) Life-Lease with a Redemption Formula Based on the market Value of the Unit (less a 5% charge)

in n years = (Rent Prepayment) X [(1+average annual increase in the market value of the unit)^n] X (1-service charge)
in 12 years = (134,400) X [(1+0.06)^12] X (1-0.05)
= $256,917
This must be solved by iteration to reach the amounts of the redemption value and of the rent prepayment.

EXHIBIT 5-4

Example of the Effect of the Redemption Formulas on Life Leases



6.0 SUBSIDIZATION OF UNITS FOR LOWER INCOME SENIORS

6.1 Introduction

The financial structure of a potential senior citizens ownership-type project must be carefully considered, with reference to the market conditions, development costs, and the objectives of the sponsor.

This section develops financial terms to illustrate the degree of income mixing and equity mixing which can be accomplished in the building.

Three general financial models have been analyzed:

a) The cross-subsidization of the units occupied by lower income seniors from the profits from the sale of the market units.

b) The use of the market value of the project site as a "land subsidy" for those units occupied by lower income seniors.

c) A model which utilizes both a cross-subsidy and a land subsidy.

6.2 Cross-subsidization of Units from the Sale of Market Priced Units

6.2.1 Introduction

The concept of creating low-income units by utilizing funds generated through the sale or life lease of market-priced units has been advanced. This method has been utilized by a small number of projects to date.

6.2.2 Selling or Rental Price of Market units

A key aspect in creating the cross-subsidization of units is the relationship between development cost and unit market values. It is this difference which enables the cross-subsidization to occur.

a) Condominium Units

The market price of ownership units may be determined by reviewing the condominium market in the proposed project's geographical area.

The current market selling price of new condominiums in the London area range from $100 to 130 per square foot for a unit in a building with standard amenities to as much as $200 per square foot for a unit in a "luxury" building. The selling price of a unit in the hypothetical project was calculated at $140 per square foot.

b) Near-Ownership Seniors Units

The evidence of whether non-owned seniors units, including life-tenure, shared equity, and the other methods discussed earlier, should be priced above or below comparable condominium units is not clear.

A number of the projects built were marketed in excellent housing markets, with rising prices, which obscures the relationship between ownership and near-ownership. The lawyers consulted indicated that not having title seriously undermined the security, and hence the value of near-ownership units. They also indicated that the legal uncertainty surrounding near-ownership methods also undermined the price.

In contrast, several of the near-ownership projects visited utilize a market value formula, based on condominium units in the area. To date this has apparently functioned well. Representatives of the life-lease projects surveyed supported the opinion that near-ownership units in a seniors community, with buy-back provisions, might be priced at a premium, above a regular market condominium. The specialized community in such a case may be the attractive feature, rather than the ownership tenure offered.

c) Monthly Rental

Many project sponsors will wish to create units on a rental or rent supplement basis, for those persons for whom ownership vehicles may not be appropriate. Unfortunately, in the current environment, rental housing is rarely viable, and some of any available cross-subsidy or land subsidy funds will have to be employed to create viability.

For example, dealing with a two bedroom unit in the London project format:

Monthly Debt Service:	
Unit Capital Cost: $116,895 (cost excluding the seniors centre, but including the imputed land value; from Exhibit 3-2)	
Mortgage: 14%, 25 year amort.:	
$116,895 X .0117388 =	$1,372.20
Monthly Costs:	
Operating Costs and Taxes:	$320.00
Total Monthly Costs :	$1,692.20
Monthly Market Rent (two bedroom)	$750.00
Monthly Operating Shortfall	$942.21

According to the London office of CMHC the market rent of one-bedroom units similar to that in the hypothetical project is approximately $500.00 per month, leaving a shortfall of $942.21

Alternatively, this may be expressed as the unit yielding $430 per month to support its capital cost; at current rates this amounts to 41,280 of capital cost, with the balance of the capital cost of $75,615 having to come from other sources, including capital surpluses from cross-subsidization. Given this high use of subsidy, it is probable that most non-profit sponsors would not create market rental units in such a project, but would use them for the Rent Supplement Program, thereby serving a greater social and income need.

For any area, market rents and vacancy rates can be obtained from C.M.H.C. rental housing statistics. Current statistics for London are included as exhibits.

6.2.3 Construction Cost of Units

Section 3.2 developed the rational for the construction cost of the hypothetical project.

6.2.4 Amount of Cross-subsidy

Cross-subsidy refers to the capability of directing capital surpluses from one class of units to another, in order to meet affordability requirements. This can be accomplished (i) on a capital basis, (ii) on an

operating basis, or (iii) by means of a combination of the two.

The intent of cross-subsidization may be (i) to reduce the cost of units to low income persons, or (ii) to bring one class of units to a price which can be marketable.

The rationale for creating and utilizing a cross-subsidy by a non-profit organization is as follows:

(a) The subsidy amount will generally equal what a developer's profit would be if the project was created on an entrepreneurial basis;

(b) While the units could be offered on a condominium or near-ownership basis at the development cost, the first owner could realize the amount of the cross-subsidy/developer's profit, through selling the unit to a second household, at market price;

(c) Most non-profit and government organizations have theological or philosophical reasons for undertaking cross-subsidization that is aiding the less fortunate through contributions from the more affluent.

In the London study project, it is the intent to utilize capital surpluses from the sale of certain units, to reduce the costs of other units, and to cover the costs of a proposed seniors centre.

Earlier sections developed possible project costs and likely market prices. Based on these costs and prices the following results:

Project Cost per 2 bedroom Unit:	$116,895
Sale Price:	$134,400
Surplus:	$ 17,505

This means that each unit sold could allow the project sponsor to retain $17,505 of project units, for other purposes, plus whatever capital can be retained or supported from the use of that other unit or use.

In the case of the contemplated project, the surplus may be directed to the retention of units for retired members of the sponsoring organization, to offset the costs of a seniors community centre, and possibly to allow a certain number of assisted rent units for other low income seniors.

The sensitivity of the surplus amount to cost and price conditions can be examined. The numbers developed for the project under study yield the following surplus:

Development Cost	$116,895 per unit	($121.76/sq ft)
Sale Price	$134.400 per unit	($140.00/sq ft)
Surplus	$ 17,505 per unit	($ 18.23/sq ft)

If market conditions would allow a sales price increase of five percent, the surplus would increase by approximately 40 percent. This has been illustrated as Model One in Exhibit 6-1.

Development Cost	$116,895 per unit	($121.76/sq ft)
Sale Price	$141.120 per unit	($147.00/sq ft)
Surplus	$ 24,225 per unit	($ 25.23/sq ft)

Similarly, every additional dollar of construction cost reduces the surplus available for cross-subsidization. Given the original sale price, if the construction cost rises by five percent, the surplus available for cross-subsidization drops to 66.6 percent of the base model. This has been illustrated as Model Two in Exhibit 6-1.

Development Cost	$122,740 per unit	($127.85/sq ft)
Sale Price	$134.400 per unit	($140.00/sq ft)
Surplus	$ 11,660 per unit	($ 12.15/sq ft)

Clearly, the model is very sensitive to cost and price of units. Given this context, cross-subsidization will work very differently in different market areas. In some locations, the market price will not allow any cross-subsidization, and may make any ownership project prohibitive. In major centres, with significant demand and a high level of affordability, substantial cross-subsidization may occur.

Since the construction profit on the market units is essentially fixed regardless of the number of market units, the cross-subsidy on each unit is a function of the ratio of market to subsidized units in the project.

6.3 The Use of a Land Subsidy

6.3.1 Introduction

The use of land value to subsidize projects is a well-tried method for enhancing projects built by non-profit organizations.

When a church-owned property has been utilized as a non-profit development site, the budget typically has shown the then current market value of the land. This amount has usually been paid to the church which sold or leased the land to a related non-profit corporation for market value. The funds thus realized were recycled to construct a church building, a community centre, or to upgrade the housing amenities within the development project. Accordingly, such projects, as a whole, usually realized no capital surplus.

One model being contemplated for the London project is typical of this method. In this case, the available land subsidy dollars together with the funds realized from cross-subsidization, are to be used to fund the retention of certain housing units, to support the proposed community centre, and to meet other social objectives of the sponsor.

6.3.2 Calculating the Value of a Property

The final value of a site can only be determined immediately before construction, after all of the municipal approvals are in place, the final parking requirements are known, the specifics of soils conditions are known, and the final number of units is resolved.

The market value of a project site can be determined as follows:

i) Using the figure that the Ministry of Housing allows for social housing in the project area.

ii) Reviewing the sales of similar properties in the area. This is usually done by an appraiser, immediately prior to project commitment.

6.3.3 Amount of the Land Subsidy

A reasonable and tested guideline to utilize as a basis for the land value, is the currently available Ministry of Housing number for allowable land prices under the Private Non-Profit Program. For London, this is currently $9,500 per seniors apartment. Certain adjustments are necessary to reach a final number for any specific site and project. For the site being considered, the following should be considered.

(a) **Adjustment for other land-related costs.** On the budget developed for this project, the Ministry of Housing format was utilized. The $9,500 cost guideline is for line 9, which includes municipal development charges, legal fees associated with land purchases, and soils tests and surveys.

(b) **Adjustment for non-housing uses, in the hypothetical project, the seniors centre.** The seniors centre has been included at 11,000 square feet, with the housing components having a total area of 216,206 square feet.

(c) **Adjustment for the units larger than the Ministry of Housing guidelines for their seniors units.** The increased size of units, within any available zoning envelope, means that fewer units are usually buildable, implying a higher per unit cost. A comparison of the hypothetical project concept with a recent Ministry of Housing project was made, and the extra area amounted to approximately 15 percent.

The value of the land subsidy has been calculated in Exhibit 6-2. For this model the maximum available land subsidy is $1,685,278. Depending upon the circumstances of the original land acquisition, the available land subsidy may have to be reduced by either the original land cost, or the amount of any outstanding debt. The amount of the land subsidy may be used by the project sponsor for creating units targeted to low-income persons, subsidizing the operations of project amenities, or undertaking other social mandates.

For any property, the amount of the available land subsidy will be approximately proportional to the number of units. For the sample London project, each unit made available on an ownership-type basis will yield an available land subsidy of $8,425.

6.4 The Use of Cross-subsidization and a Land Subsidy

Within any project a wide variety of possible configurations of unit mixes are possible, as has been noted in the legal section of this report.

Based on the hypothetical London project data, sample project configurations, included as Exhibits 6-3 to 6-10, have been created to explore the possible

structures, within the context of the hypothetical project. These do not comprise a final project configuration, but possible alternatives. The final configuration of units must be a response based on the specific market context, social objectives of the group, and development costs.

Exhibit 6-3 shows the impact of the study project, as if all 200 units were sold at a price of $140 per square foot. This yields a considerable surplus, which is not in keeping with the desires of most non-profit organizations. It should be noted however, that most financial sources will require some surplus to be realized from the project, as a cushion against unforeseen occurrences, such as project delays, problems in marketing, or extra costs. As much as most non-profit sponsors might wish otherwise, it is not desirable that any project financial package would show only break-even project development projections. Accordingly Exhibits 6-4 to 6-10 show a number of alternatives open to a non-profit sponsor.

Exhibit 6-4 shows a structure whereby most units are "sold", either outright as condominiums or at market value alternatives, while some are retained to be made available on a reduced cost life tenure basis, in this case involving the prepayment of $30,000 by the senior, a typical amount of capital which may have been accumulated by a senior member of the clergy of a sponsoring organization. The ratio shows 172 units "sold" and 28 retained. The "Land Value Recovered" entry is the cost of the land included in the capital budget, and is the amount recoverable, if the land had come to the project without cost. The "Surplus" amount is a possible amount of funds which might be available, if the land had been obtained several years before at a substantially lower cost, and is a hypothetical amount which may be available to the sponsor for additional retained units or to undertake other community work. As was noted earlier, often this surplus is used by non-profit sponsors for the building of a new church in conjunction with the housing project, creating the usual zero surplus result.

Exhibit 6-5 shows an alternative where 166 units are "sold", 22 are retained for reduced prepayment life-lease, and 12 are retained for monthly rental, probably on a rent supplement basis. Monthly rents have been projected, the operating costs deducted, and an amount available for debt service (Total Annual Earnings before Interest) has been calculated. At a mortgage rate of 12.5 percent, this allows a mortgage of

$495,360 to be supported by the project. The handling of the land was the same as in Exhibit 6-5.

Exhibit 6-6 shows an alternative where 103 units are sold and 97 units are retained by the sponsor to be made available on a 'no-gain at redemption' basis. This accomplishes a reduced cost of entry into the project for some seniors. For the project sponsor, an important advantage is that future surpluses can be realized as the units are recycled at higher entry costs. These surpluses could be used to repurchase the units which were sold at market prices, so that a greater number of units could be offered on a low cost basis.

Exhibit 6-7 illustrates the alternative of offering all units in the project on a loan stock arrangement. Under this tenure arrangement, a senior would again pay a reduced entry fee. The project would not assume a mortgage. Units would be offered at cost. Future recycling of units could realize surpluses to the project sponsor.

Exhibit 6-8 illustrates a project offering a tenure mix consisting of condominium units and pure life tenancies. The main advantage of this approach consists of offering to seniors the ability to move into the project for a reduced price if they choose to accept no funds back when they leave the unit. For the project sponsor, the investment in the reversionary interest of such a life tenancy would provide an opportunity to realize future surpluses which could be targeted to future low income residents.

Exhibit 6-9 depicts a project in which seniors occupy the project with a still lower amount of equity. The advantage to the project sponsor is the future surpluses accruing from the appreciation on the shared equity units, while the senior occupies the unit for a payment of half of its freehold price.

Finally, Exhibit 6-10 illustrates the situation in which the sponsor sells condominium units at market price and directs the surpluses to finance units to house low income households. Since the sponsor would not require any mortgage financing, the rental units offered could be available at rents as low as their actual operating costs and taxes.

Exhibit 6-11 summarizes the results of Exhibits 6-3 to 6-10, and indicates some of the range of possibilities to mix housing forms to meet the needs of varying types of seniors.

The calculations in Exhibits 6-3 to 6-10 show a number of possible alternatives for any sponsoring group. The structure can yield various combinations of:

- Units for Sale (or full-price alternatives)
- Units for Retention for reduced price life lease
- Units for Rental or Rent Supplement
- Surpluses for other facilities to be built on site, such as a church or community centre.
- Surpluses for other functions undertaken off-site

6.5 Investor Involvement

Potential exists to involve outside investors in the financing of a seniors' project. This has been explored in section 5, with respect to the impact on the seniors. The performance and attractiveness of such models for an outside investor relates to the structure offered to senior occupants.

Exhibit 6-12 shows the possible returns for investors who might participate in the methods shown in Exhibit 5-3. Exhibit 6-12 shows how the cost of a unit might be divided between a senior and an investor in a zero balance returned method, with the senior paying $68,456, and an investor paying $65,944 of a $134,400 unit. If the senior leaves the unit in, for example, the fifth year, the investor would receive $170,865, the market value of the unit less the cost of recycling the unit, for a yield on the investment of 20.97 percent. Similarly, the declining balance and no gain on redemption models are shown. These models were developed to show a uniform return of 12% to an investor if the unit was redeemed in the twelfth year.

For a method involving an investor, the attraction for an investor comes from the following features:

(i) The unit may appreciate considerably faster than the rate of inflation,

(ii) The models shown have inherent leverage, through the seniors' share of the funding, enabling higher returns to be realized, than if the investor owned the unit outright.

(iii) The investor is not responsible for any debt service, as he would be if he were to borrow to buy a unit outright,

(iv) The investor is not responsible for managing the unit, collecting rent, or finding tenants; these would be undertaken by the project sponsor or manager,

(v) The return would probably be taxable as a capital gain,

Co-ownership of seniors condominium units, within a sponsored retirement community, could be extended to allow investor participation. Such a structure might be:

(a) The unit is sold to the senior and the sponsor,

(b) The sponsor assigns its financial interest to the investor, while retaining its rights to re-cycle the unit,

(c) The senior pays a portion of the unit value, as may be determined for each project; this amount is shown in Exhibit 5-3 and 6-12 as "Investor Financing".

(d) The senior lives in the unit, and pays the amount of the operating costs of the unit,

(e) When the senior leaves the unit, he or she receives an amount as determined by the original agreement; the investor receives the difference between the then current unit value and the amount, if any, which is returned to the senior,

(f) The investor would be able to utilize the capital cost allowance from the property, if it was of value to him,

(g) For any specific property, the figures would have to be calculated specifically to create an attractive yield.

It must be recognized that within a senior's ownership project, a major uncertainty exists with regards to the length of time any specific senior will occupy any specific unit. The length of time can be very short, a matter of months, or can extend for many years; a widow might pass away at age 100, having moved into the

project at age 65; for a tenure of thirty-five years. This uncertainty creates problems in assessing future cash flows. For the examples in Exhibit 6-12, the differences in yield to the investor, created by redeeming the unit in different years can be noted. As well as varying the yields, the uncertainty about when the cash flow will occur will be unattractive to most investors. To reduce this, the creation of pools of units can be considered.

Viability to the investor is not the only issue in the models discussed. The acceptability to the senior participant is important. Canadian seniors have shown a demand for good financial performance, and most projects have found they have had to offer a good financial deal. The Zero Balance Return, while showing the best return to an investor, will be found to be unacceptable to seniors. The Declining Balance and the No Gain At Redemption formulas will be more acceptable; however, specific market information will be required.

Of course, the sponsor of the project could act in the investor role where the returns available are reasonable, but not high enough to attract outside investors. It would have the advantage that it could act on a large pool of units. This method would enable an ongoing return to be made on the internally-generated cross-subsidy.

Notwithstanding the above, the role of the investor is not to be confused with the creation of cross-subsidized units. The investor needs a return, while the sponsor can use cross-subsidy or land subsidy to offer units to low-income seniors with less concern about obtaining a superior return, given such a sponsor's social objectives.

EXHIBIT 6-1

Sensitivity of Funds for Cross-Subsidization to Cost and Price

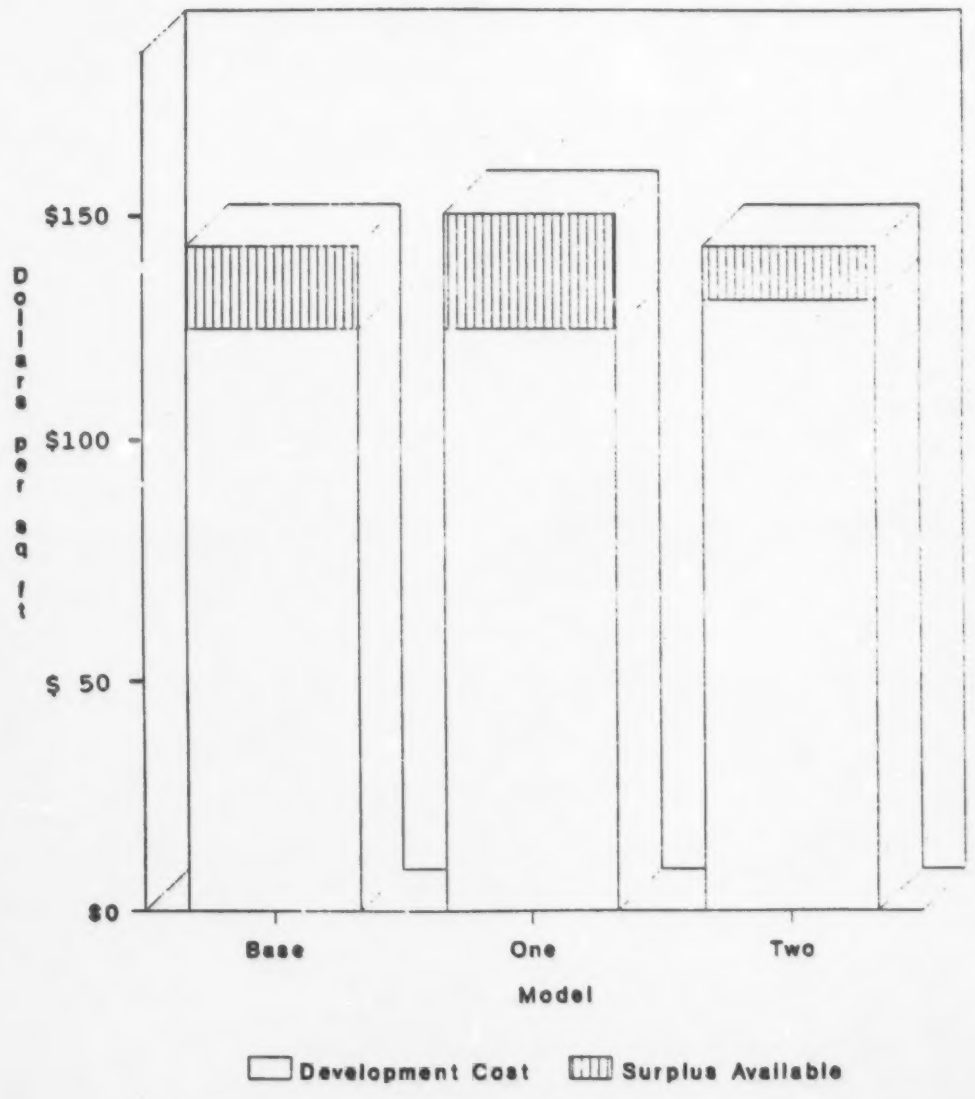


EXHIBIT 6-2

The Value of the Land Subsidy

	Total	Seniors Centre	Apartments
LAND COMPONENT			
Basic Price of Land (200 units at $9,500 per unit)			1,900,000
Adjustment in the Price of Land Due to Increased Unit Area (15%)			285,000
Area of Seniors Centre 11,000 sq ft / 216,206 sq ft X $2,185,000		111,167	
Total Land Component	2,296,167	111,167	2,185,000
LESS			
Development Charges	591,889	33,289	558,600
Surveys	6,000	316	5,684
Soil Tests	8,000	421	7,579
Legal Fees	5,000	263	4,737
Subtotal	610,889	34,289	576,600
MAXIMUM LAND SUBSIDY	1,685,278	76,878	1,608,400

EXHIBIT 6-3

Projected Development Surplus for the Hypothetical Seniors Project

Unit Type:	**Two Bedroom**
Unit Size (SqFt):	**960**
Number of Units:	**200**
Price per SqFt:	**$140.00**
Price per Unit:	**$134,400.00**
Sales Revenue:	**26,880,000**

CAPITAL SUMMARY

PROJECT COST			
Apartments:	23,363,998		(Exhibit 3-2)
Seniors Centre:	1,033,925		(Exhibit 3-2)
REVENUE			
Sales Revenue:		26,880,000	
Value of Donated Land:		1,685,278	(Exhibit 3-2)
	24,397,923	28,565,278	
SURPLUS:	4,167,355		

NOTES:
1. The project cost was estimated in Section 3.

EXHIBIT 6-4

Illustration of Financial Implication of Possible Tenure Mix

Units 'Sold' at Market Value:	172
Units Retained by Sponsor and Leased on Life Tenure	28

	Units Sold at Market Value	Life Tenure
Number of Units:	172	28
Price per Unit:	$ 134,400	
Life Tenure Prepayment:		30,000
Sales Revenue:	$23,116,800	
Total Prepayment:		840,000

CAPITAL SUMMARY

PROJECT COST		
Apartments:	23,363,998	
Seniors Centre:	1,033,925	
REVENUE		
Sales Revenue:		23,116,800
Prepayment Retained:		840,000
Value of Donated Land:		1,685,278
	24,397,923	25,642,078
SURPLUS:	1,244,155	

NOTES:
1. The project cost was estimated in Section 3.

EXHIBIT 6-5

Illustration of Financial Implication of Possible Tenure Mix

Units 'Sold' at Market Value:	166
Units Retained by Sponsor and Leased on Life Tenure	22
Units Retained by Sponsor andRented at Market Rent:	12

	Units Sold at Market Value	Life Tenure	Monthly Rental
Number of Units:	166	22	12
Price per Unit:	$ 134,400		
Life Tenure Prepayment:		30,000	
Market Rent:			$750.00
Sales Revenue:	$22,310,400		
Total Prepayment:		660,000	

CAPITAL SUMMARY

PROJECT COST

Apartments:	23,363,998
Seniors Centre:	1,033,925

REVENUE

Sales Revenue:		22,310,400
Prepayment Retained:		660,000
Value of Donated Land:		1,685,278
Mortgage (2):		495,360
	24,397,923	25,151,038
SURPLUS:	753,115	

NOTES:

1. The project cost was estimated in Section 3.

2. The mortgage amount was derived from the following calculations:

Total Annual Retn :	$108,000
Total Annual Operating Costs: (estimated at $320/unit/month)	46,080
Annual Earnings Before Interest:	61,920
Mortgage Rate:	12.50%
Debt Service Carried by Earnings:	495,360

EXHIBIT 6-6

Illustration of Financial Implication
of Possible Tenure Mix

Units 'Sold' at Market Value:	103
Units Retained by Sponsor and Marketed on a 'No Gain at Redemption' Basis	97

	Units Sold at Market Value	No Gain at Redemption Units
Number of Units:	103	97
Price per Unit:	$ 134,400	
Loan Stock Prepayment:		92,094
Market Rent:		
Sales Revenue:	$13,843,200	
Total Prepayment:		8,933,118

CAPITAL SUMMARY

PROJECT COST			
	Apartments:	23,363,998	
	Seniors Centre:	1,033,925	
REVENUE			
	Sales Revenue:		13,843,200
	No Gain at Redemption Units:		8,933,118
	Value of Donated Land:		1,685,278
		24,397,923	24,461,596
	SURPLUS:	63,673	

NOTES:
1. The project cost was estimated in Section 3.

EXHIBIT 6-7

Illustration of Financial Implication of Possible Tenure Mix

Units 'Sold' at Market Value:	0
Units Offered on Loan Stock Arrangement	200

	Units Sold at Market Value	Loan Stock Units
Number of Units:	0	200
Price per Unit:	$ N/A	
Laon Stock Prepayment:		113,564
Market Rent:		
Sales Revenue:	$ 0	
Total Prepayment:		22,712,800

CAPITAL SUMMARY

PROJECT COST

Apartments:	23,363,998
Seniors Centre:	1,033,925

REVENUE

Sales Revenue:		0
Interest Free Loans:		22,712,800
Value of Donated Land:		1,685,278
Mortgage		0
	24,397,923	24,398,078
SURPLUS:	155	

NOTES:

1. The project cost was estimated in Section 3.

EXHIBIT 6-8

Illustration of Financial Implication
of Possible Tenure Mix

Units 'Sold' at Market Value:	138
Units Offered on Pure Life Lease Basis with no Return at Redemption:	62

	Units Sold at Market Value	Pure Life Tenancy
Number of Units:	138	62
Price per Unit:	$ 134,400	
Life Tenure Prepayment:		68,456
Market Rent:		
Sales Revenue:	$18,547,200	
Total Prepayment:		4,244,272

CAPITAL SUMMARY

PROJECT COST		
Apartments:	23,363,998	
Seniors Centre:	1,033,925	
REVENUE		
Sales Revenue:		18,547,200
Life Tenancies:		4,244,272
Value of Donated Land:		1,685,278
	24,397,923	24,476,750
SURPLUS:	78,827	

NOTES:
1. The project cost was estimated in Section 3.

EXHIBIT 6-9

Illustration of Financial Implication
of Possible Tenure Mix

Units 'Sold' at Market Value:		139
Units Offered on Shared Equity Basis with equity shared 50/50 between the senior and the Sponsor:		61

	Units Sold at Market Value	Shared Equity Units
Number of Units:	139	61
Price per Unit:	$ 134,400	
Life Tenure Prepayment:		67,200
Market Rent:		
Sales Revenue:	$18,681,600	
Total Prepayment:		4,099,200

CAPITAL SUMMARY

PROJECT COST			
	Apartments:	23,363,998	
	Seniors Centre:	1,033,925	
REVENUE			
	Sales Revenue:	18,681,600	
	Shared Equity:	4,099,200	(seniors portion)
	Value of Donated Land:	1,685,278	
		24,397,923	24,466,078
	SURPLUS:	68,155	

NOTES:
1. The project cost was estimated in Section 3.
2. Shared Equity Units: Equity being shared on a 50/50 basis between the senior and the sponsor.

EXHIBIT 6-10

Illustration of Financial Implication
of Possible Tenure Mix

Units 'Sold' at Market Value:	169
Units Rented to Low Income Senior Households at $320 per month (operating costs)	31

	Units Sold at Market Value	Rental Units
Number of Units:	169	31
Price per Unit:	$ 134,400	
Rental Apartments: Market Rent:		0
Sales Revenue:	$22,713,600	
Total Prepayment:		0

CAPITAL SUMMARY

PROJECT COST		
Apartments:	23,363,998	
Seniors Centre:	1,033,925	
REVENUE		
Sales Revenue:		22,713,600
Rental:		0
Value of Donated Land:		1,685,278
	24,397,923	24,398,878
SURPLUS:	955	

NOTES:
1. The project cost was estimated in Section 3.

EXHIBIT 6-11 - SUMMARY OF ALTERNATIVES
FINANCIAL REQUIREMENTS FOR SENIOR OCCUPANTS

	EQUITY REQUIRED	MONTHLY OCCUPANCY COST	INCOME REQUIRED	NUMBER OF UNITS
Exhibit 6-3				
Units Sold at Market Value	134,400	300	14,400	200
Exhibit 6-4				
Units Sold at Market Value	134,400	300	14,400	172
Units Made Available on Life-Tenure	30,000	320	15,360	28
Exhibit 6-5				
Units Sold at Market Value	134,400	300	14,400	166
Units Made Available on Life-Tenure	30,000	320	15,360	22
Rental Units	0	750	36,000	12
Exhibit 6-6				
Units Sold at Market Value	134,400	300	14,400	103
Units Marketed on a No Gain at Redemption Basis	92,094	320	15,360	97
Exhibit 6-7				
Units Offered on a Loan Stock Basis	113,564	320	15,360	200
Exhibit 6-8				
Units Sold at Market Value	134,400	300	14,400	138
Units Offered as Pure Life Tenure	68,456	320	15,360	62
Exhibit 6-9				
Units Sold at Market Value	134,400	300	14,400	139
Units Offered on a Shared Equity Basis	67,200	525 (1)	25,200	61

	EQUITY REQUIRED	MONTHLY OCCUPANCY COST	INCOME REQUIRED	NUMBER OF UNITS
Exhibit 6-10				
Units Sold at Market Value	134,400	300	14,400	169
Units Rented to Low Income Seniors	0	320	15,360	31

NOTES

(1) Based on 50 percent of market rent of $750 per month plus 50% of operating costs of $300 per month.

Exhibit 6-12

Example of the Use of Life-Leases as Investment Vehicles

Price of dwelling in year 0 - Includes project cost and surplus	$134,400
Expected length of tenure by senior	12 years
Term length of declining balance redemption	20 years
Annual rise of the market value of dwelling	6%
Annual change in CPI	5%
Cost to project sponsor of recycling unit	5% of market value
Service charge to the tenant to redeem unit (applies only to CPI and Market Value Redemption Formulas)	5% of market value

	Zero Balance	Declining Balance	No Gain at Redemption
Cost of Unit	$134,400	$134,400	$134,400
Investor Financing	$65,944	$58,112	$42,306
Rent Prepayment	$68,456	$76,288	$92,094

	Redemption Value to Investor	Expected Annual Return	Redemption Value to Investor	Expected Annual Return	Redemption Value to Investor	Expected Annual Return
Year 0	$127,680		$51,392		$45,586	
1	135,341	105.24%	62,867	8.18%	43,247	-2.22%
2	143,461	47.50%	74,802	10.46%	51,367	10.19%
3	152,069	32.12%	87,224	14.50%	59,975	12.34%
4	161,193	25.04%	100,162	14.58%	69,099	13.06%
5	170,865	20.97%	113,648	14.36%	78,771	12.24%
6	181,117	18.34%	127,715	14.02%	89,023	11.20%
7	191,984	16.49%	142,396	12.66%	99,890	11.06%
8	203,503	15.13%	157,730	12.29%	111,409	12.65%
9	215,713	14.07%	173,754	12.94%	123,619	11.67%
10	228,655	13.24%	190,511	12.61%	136,561	12.43%
11	242,375	12.56%	208,045	12.29%	150,281	12.21%
12	256,917	12.00%	226,402	12.00%	164,823	12.00%
13	272,332	11.53%	245,631	11.72%	180,238	11.79%
14	288,672	11.12%	265,786	11.47%	181,385	10.96%
15	305,993	10.77%	286,920	11.23%	197,794	10.81%
16	324,352	10.47%	309,094	11.01%	215,187	10.70%
17	343,813	10.20%	332,370	10.80%	233,624	10.57%
18	364,442	9.96%	356,813	10.61%	253,167	10.45%
19	386,309	9.75%	382,494	10.43%	273,880	10.31%
20	409,487	9.56%	409,487	10.26%	295,841	10.21%
21	434,056	9.39%	434,056	10.05%	319,117	10.10%
22	460,100	9.23%	460,100	9.86%	343,790	9.99%
23	487,706	9.09%	487,706	9.69%	369,943	9.89%
24	516,968	8.96%	516,968	9.53%	397,663	9.79%
25	547,986	8.84%	547,986	9.39%	427,051	9.68%

7.0 RECOMMENDATIONS FOR LONDON PROJECT

The following are recommendations to a project sponsor in developing a seniors retirement ownership project in London area.

7.1 Requirement for In-depth Market Information

The financial and market analysis in this report have been based, in part, on assumptions of demand and affordability. These assumptions were derived from available statistical data on the London housing market.

Further in-depth market information will be required by a project sponsor developing an actual project. It is important that the project sponsors have data on the specific needs and expectations of the target group.

Data can be collected through focus group sessions and from surveys of seniors potentially interested in the project. The responses from the target group can provide the project sponsor with demand and pricing information and can highlight the importance of project features such as location, details of design and services provided.

7.2 Size of Project

Since the size of the market for a seniors ownership project in London is finite, the market acceptance of the project will be partially dependent on the size of the project. The larger the project, the greater the need to make the project attractive to the target group.

Approximately 200 to 300 apartment condominium units were completed each year in the past few years. This implies that the overall London housing market is satisfied through absorbing this number of units. Although a seniors ownership project will be targeted at a somewhat different group, it is unlikely that the London market will be capable of absorbing 160 to 200 retirement units in a year unless the project is attractive on the basis of price or features.

The degree of penetration of the target group needed to sell 160 seniors' ownership units was estimated in Exhibit 4-5. The size of the target group was assumed

to be dependent on the affordability of the project with respect to house prices. From the data, in order to sell 160 units at $130,000, the sponsor would need to convince 5.1 percent of those seniors (aged 65 to 74 years) in owning a home valued above this price, to purchase a unit. Similarly in tabular form:

Cost of Unit	Market Penetration Required
$110,000	3.4 percent
$130,000	5.1 percent
$150,000	7.75 percent
$170,000	11.8 percent
$190,000	17.3 percent
$210,000	23.6 percent
$230,000	34.8 percent
$250,000	60.3 percent

7.3 Type of Units

A seniors' ownership project should consist primarily of two-bedroom units. The data indicates that the majority of seniors contemplating a retirement unit will desire two bedrooms. This is understandable as most purchasers will have owned houses and would be accustomed to a larger amount of space. Seniors also wish to accommodate overnight visits by friends and family, for which a second bedroom is necessary.

A small percentage of one and three-bedroom units should also be included in a project to meet varying requirements of purchasers. One-bedroom units would be attractive to seniors of more limited means or who have already reduced their living space requirements. Three-bedroom units have been found to be attractive to seniors with greater space requirements.

7.4 Pricing of Units

The pricing of units relates to the size of the market and to the objectives of the project sponsor. The sponsor may wish to address the needs of a group who are selling modest houses. Alternatively the sponsor may wish to address the requirements of mid to upper income groups, in order to subsidize the construction and operation of units for persons with very low incomes.

In the London market, the market acceptance of a unit will be related to its selling price per unit of floor area. The current selling price of new condominium

units in London ranges from $110 per square foot for standard condominium units to $130 per square foot for luxury units. Standard condominium units now sell for up to $110,000 while luxury units may sell for over $180,000.

While the housing market may not be limited to these figures, these prices can be used as a guideline in pricing a new seniors ownership project.

7.5 Tenure Structure

With regard to the tenure structure, for both the market and the reduced cost units, this report recommends the following be considered by a project sponsor:

i) Condominium Structure

A condominium be created, notwithstanding the actual chosen tenure structure for the tenants. This will reduce property taxes, and clarify the pass-through of operating costs and taxes.

ii) Market Priced Seniors Units

The recommended form of tenure offered to seniors is dependent on the degree of long-term control desired by the project sponsor.

If no long-term control is desired, the standard freehold condominium structure should be used as described in Section 5.3. While some clauses restricting occupancy or resale may be included, the present and possible future legal questions regarding these restrictions will remain. Therefore the long-term control by a non-profit sponsor, over a condominium cannot be assumed.

If long-term control is desired, the leasehold condominium structure should be used as described in Section 5.7. Some or all of the title to each of the individual units should be retained by the sponsor, and alternative contractual arrangements be made with each occupant.

If the sponsor chooses a controlled ownership structure it is recommended that the project sponsor and the tenant establish a tenancy in common arrangement, as described in Section 5.7

This is for the following reasons:

(a) it reduces the legal arrangements to two legally clear documents, (a condominium purchase, and a "partnership" agreement between senior and sponsor)
(b) it clearly does not create a landlord-tenant relationship
(c) it is flexible, and various occupants of any building can have different arrangements
(d) it provides clear, legal security for the tenant on the title of an individual unit, notwithstanding any future financial or other difficulties on the part of the project sponsor
(e) it allows the possible participation of individual entrepreneurial investors, who might be involved in one or more units, who can also be given the same ownership security of the tenants.

7.6 Units Retained for Modest Income Seniors

The choice to retain units for modest income seniors is a decision of the sponsor, with reference to the specific intended social purposes of any project. The London context does not vary from the overall condition; the retention of units to rent by the project sponsor does not represent a significant problem; it must be planned in the project's financial structure. Given the lack of rental viability in London, it is likely that the units so created would not be made available as market-rent units, but would be specifically made available to low-income seniors who would be income-tested.

Alternatively, as was illustrated in Exhibit 6-5 and 6-6, units may be retained for persons who may have a small amount of capital, and would make their funds available in order to reduce their monthly costs. Given the high amount of debt service implied by the total capital cost of a unit, reduced amounts of prepayment only make sense if the senior gets virtually no return of his/her prepayment at the end of the tenure, with the investor or project receiving all of the benefit from any unit appreciation, or if the units are retained for the benefit of members of the sponsoring organization, such as retired clergy. For example, the cost of a unit of $116,895 at an interest rate of 12.5% (interest only) implies a debt service of $1,300 per month - before operating costs and taxes.

If the senior could pay half of the unit cost and the rest was borrowed, the interest cost would still be $650 per month, which, when added to the operating costs and taxes, gives a monthly cost of more than typical rental rates for similar apartments in London.

The investor structures have been shown in Section 6, if a sponsor was to retain units for its retired clergy, the refund of money is almost irrelevant in the overall structure of the property. In such a case, the refund might be based on the Consumer Price Index, so the senior, or his estate, receives an amount which remains in keeping with inflation, and the sponsor can recycle the unit, at a price only adjusted for inflation.

Clearly, the overall model provides a number of alternatives for creating units with reduced prices for low-income / low-asset persons, such units to be made available on an alternative tenure method.

8.0 REFERENCES

8.1 Interviews

The following projects were contacted and the administrators or board representatives were interviewed:

The Eastwood Community - Kitchener, Ontario
The Elridge - Guelph, Ontario
Metropolitan Toronto Seniors Shared Equity Project - Scarborough, Ontario
Parkview Village - Stouffville, Ontario
The Toronto Finnish-Canadian Centre (Suomi-Koti) - Toronto, Ontario
Wyndham Gardens - Unionville, Ontario

The following projects were researched from the available material:

Kiwanis Chateau - Winnipeg, Manitoba
Nithview Seniors Vilage - New Hamburg, Ontario
St. Elizabeth Village - Hamilton, Ontario

Specific references to the various details of the projects have been left unreferenced. The current unsettled state of seniors near-ownership housing means that some of the projects reviewed appear to contain unresolved issues relating to provincial legislation.

8.2 Bibliography

The following papers and publications were consulted in the preparation of this report:

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APPENDIX A

GLOSSARY

Though much of the terminology used in this study is widely used in the seniors and real estate fields, we have provided some definitions and clarification of the terms as to their precise meaning for our purposes

Condominium

This term describes a building which is divided into separately owned units.

Condominium Corporation

This term describes the legal entity which has the primary role in controlling, managing and administering the common elements and assets of the condominium. Each person who owns or who has a registered mortgage on a condominium unit has a voting right in the corporation.

Control

This term describes the degree of input that the non-profit sponsor has in the management decisions and the choice of tenants after the senior's project has been occupied.

Entrepreneurial

This term is used to describe the privately initiated and for-profit housing market sector.

Life-Lease

This term describes a rental agreement which gives a tenant the right to occupy a unit for life in exchange for prepayment of rent in a lump sum. A portion of the rent prepayment may be reimbursed upon the death of the tenant. A life-lease tenant is usually responsible for monthly payments to cover the cost of utilities and maintenance.

Loan Stock Arrangement

This term describes a legal agreement which gives the tenant the right to occupy a unit rent-free for life in exchange for a loan made by the tenant to the sponsor of the housing project. The tenant is usually responsible for the monthly payments to cover the cost of utilities and maintenance.

Market Rent

This is the average level of rent for a similar unit in the same marketplace.

Maximum Unit Price (M.U.P.)

Maximum Unit Prices are established by the CMHC in conjunction with the Ministry of Housing as the maximum amount that is acceptable for the development of modest housing. These values are established at least once a year and vary from community to community across the province.

Private Non-profit Corporation

This term describes an incorporated non-profit entity. The corporation can act as a developer and/or manager of a retirement housing project.

Project

This term describes the physical facility designed for the accommodation of senior citizens.

Rent-Geared-to-Income Units (RGI)

This is housing which is made available to individuals at a rent which is calculated as a proportion of the tenant's rent. The rent of RGI units may be assisted by such programs as the Ontario Ministry of Housing's Rent Supplement Program, in which the government pays the difference between the "market rent" for the unit and the reduced rent the tenant pays.

Resident-Financed

This refers to housing which is created by means of utilizing the equity of seniors. It includes seniors condominiums, life-leases, shared-equity, and other such near-ownership forms.

Retirement Housing

This term describes accommodation for individuals over the age of 60 and for couples where at least one of the spouses is over the age of 60.

Social Housing Projects

This term is used to describe housing projects initiated by government or by a non-profit sponsor. The purpose of these projects is to fulfil the social need for housing rather than to make a profit for the owner.

APPENDIX B

EXISTING GOVERNMENT PROGRAMS

There are two programs in Ontario that can be incorporated into a seniors' ownership project. These are the Rent Supplement Program, and the Private Non-Profit Programs.

B.1 Rent Supplement

The Ontario Ministry of Housing has created the Rent Supplement Program to make rental housing available to persons who otherwise would not be able to afford reasonable accommodation.

Under this program, the landlord has an agreement with the Ontario Housing Corporation, which will ensure full market rent for the unit is paid for a predefined term. These rents are negotiated annually to reflect ongoing market rent in the area.

The tenant in the unit is selected by the local housing authority. The landlord-tenant relationship remains, however, and the tenant pays rent as determined by the rent-geared-to-income scale, as determined by the local housing authority. The Ontario Housing Corporation pays the difference between the tenant rental payments and the market rent for the unit.

The London office of the Ministry of Housing indicated that the units provided to the Rent Supplement Program must appear modest in nature to be eligible for the program. They also indicated that no new Rent Supplement Units were currently being created or planned in the near future.

B.2 Private Non-Profit Program

The Private Non-Profit Program is the major program currently supporting the creation of new affordable units in Ontario. The program comprises a number of sub-programs having varying levels of federal and provincial participation.

The basic elements of the program are:

(i) The program is available to private non-profit organizations, such as those typically sponsored

by religious organizations, ethnic groups, and social clubs.

(ii) Mortgage insurance for one hundred percent of the allowed maximum unit price for the project.

(iii) A targeted structure of rents, supporting a mix of income groups in many projects.

(iv) A subsidy is paid monthly to (i) bring the project to a point of viability, on the basis of market rents, and (ii) to subsidize the rent of those tenants unable to afford market rent.

Application of the Private Non-Profit Program to a Seniors Ownership Project

It would be possible to design the project so as to sell a block of units to a related non-profit company controlled by the project sponsor. These units would have a targeting plan for a high proportion of core need tenants. The units would be created on a "turnkey" basis, and delivered to the related non-profit on completion.

The major limitations of this method would be:

(i) The units would be sold at maximum unit price, currently being $80,000 for a two bedroom unit, and $73,000 for a one bedroom unit. These units would have to be specially designed and designated for this purpose to meet these cost requirements.

(ii) The Private Non-Profit program is subject to a "competitive" request for proposals from time-to-time. Although the proposal which might be made would be favoured as a large proportion of low-income units might be created, the current program does not give priority to seniors units.

(iii) The program has definite times of requests for proposal, awards of unit allocations, and time-tables for delivery of units. The proposed project must correspond to these regulations.

(iv) The future supply of units is very uncertain, with the federal contributions declining, and provincial commitments beyond the current "Homes Now" initiative are undefined.

The Private Non-Profit Housing Program represents a method of creating a block of units for low-income persons. If the timing for an application is appropriate, this avenue might be considered by a non-profit sponsor.

B.3 Possible Social Services Programs

The Ministry of Community and Social Services and the Ministry of Housing are currently reforming their concepts of long-term care.

Initiatives such as "Living in the Community" are emerging. While this particular program is not specifically housing-oriented, it is designed to enhance seniors apartment projects by providing appropriate support services. The intent is to prevent the institutionalization of seniors by supporting them in home environments, including seniors apartment projects.

Several programs are emerging, so the Ministry of Community and Social Services should be directly contacted for information on specific opportunities. The document "Strategies for Change: Comprehensive Reform of Ontario's Long Term Care Services" contains the possible directions for reform of Ontario's long-term care system.

APPENDIX C

POSSIBLE GOVERNMENT SUPPORT FOR SENIORS OWNERSHIP PROJECTS

There are a number of possibilities for support of seniors ownership units by federal and provincial housing agencies.

The experience of existing seniors ownership projects has demonstrated that there is no requirement for ongoing financial support by government agencies, except to subsidize units geared to low income persons.

However, many groups find the launching of a seniors housing project outside of the established non-profit housing programs to be difficult. Several difficulties have been cited:

(i) **Identifying an appropriate method for creating a project.**
Many groups have problems determining a project methodology which will meet the objectives of the sponsoring organization, be possible to finance, be financially viable in the long-term, and be legal. This is in contrast to the government funded methods, where program details are specified.

(ii) **Developing comprehensive documentation for the chosen form of tenure.**
The tenure documentation of the projects reviewed differed widely. The lack of any standardization in the contracts has required the lawyers of prospective purchasers to review the documentation in detail. Individual lawyers have expressed their concerns about the unusual documentation involved and the fact that it has not been tested in court.

(iii) **Dealing with financial institutions for project financing.**
A considerable amount of capital is required for the development of housing projects. Financial institutions generally require that the original development financing be guaranteed in some manner. The projects reviewed obtained financial guarantees from an existing large sponsoring organization (such as a home for the aged), from the contractors constructing the project, or from personal guarantees by members of the sponsoring community. These are not available to every project sponsor.

(iv) **Concerns about project failure endangering the tenure and safety of participating seniors.**
Protecting seniors' savings is important to most potential project sponsors. The failure of any alternative tenure project will likely create great caution among that province's seniors, and may end the production of such housing.

(v) **Financial Limitations with Regards to Obtaining Municipal Approvals**
Municipal Approvals are becoming increasingly difficult to obtain, and in larger municipalities, are requiring increasing amounts of money earlier in the projects to pay for planners, lawyers, and municipal charges. This must be done before units can be committed or project financing finalized.

(vi) **Costs of Meeting New Homes Warantee Program**
The Ontario New Homes Warantee Program is oriented towards entrepreneurial developers. The financial commitments, often of a personal nature, are not easy to obtain for non-profit organizations, hence limit access to the condominium process.

Accordingly, possible support to encourage such projects might include various combinations of the following:

(i) **Government Approval of Standard Methods**
The approval of standard methods of creating seniors ownership and near-ownership projects, and approval of standard documentation, would assist the groups. Some material was prepared by the Ministry of Housing of Ontario's Housing Advocacy Task Force in the late 1980's. Supporting information explaining the methods to potential groups should be made available.

(ii) **Government Guarantee of Senior's Tenure and Payments**
The reviewed senior's projects having alternative tenure, were able to market their units because of the respect given to the sponsor by a geographical and/ or cultural market community. In order to assist project sponsors to develop housing with alternative tenure forms, additional security could be provided to the tenants by government agencies. The security could be a guarantee of tenure and rent repayment.

(iii) **Guarantee of Project Financing**
A program to assist project sponsors in obtaining initial project financing would assist many sponsors in developing this form of housing. This could include government guarantees for financing for approved projects.

(iv) **Forgivable/ Repayable Development Loans**
Within the context of a program, some minimal funding to assist a group in organizing and assembling the initial materials for marketing and site rezoning would be of great assistance. These funds could be recovered by the government agency from successful projects and forgiven when the project failed to proceed.

(v) **Government Guarantees to Meet New Homes Warantee Program**
Federal or provincial guarantees to support non-profit sponsors would be of great assistance in utilizing the condominium vehicle.

Any of the suggested government support programs could be made conditional upon:

- the use of an approved tenure method, by an approved non-profit sponsor,
- a project configuration providing seniors housing that is modest in nature,
- firm commitments with deposits for a specified percentage of units prior to final commitment,
- a commitment from the project sponsor to offer a specified percentage of the units for housing low income people through a government Rent Supplement Program. The decision to accept the units for subsidy would be at the discretion of the provincial or local housing authority.

With the objective of minimizing government expenditure, it is suggested that implementation of the defined agreements and acceptable project types would be a first step.

Program Possibilities

There are many possibilities for specific programs. A series of steps of increasing program involvement has been prepared. With each step the cost becomes higher, and the administrative involvement greater, as progressively the programs expose the government body to additional exposure. The following program structures could be considered:

Program A - Minimal Involvement

Program elements would include:

(i) Creation of approved methods and agreements for use by the sponsor,

(ii) Enforcement of a requirement that projects must be built and managed by non-profit organizations in order to have access to program benefits,

(iii) A requirement that at least ten percent of the units be offered to the local housing authority for rent supplement.

(iv) Provision of a minimal grant to encourage groups to use approved methods and agreements, and to offer the units for rent supplement.

Program B - Additional Involvement

This program would add the following items:

(v) Availability of a substantial development Loan, paid in stages, such as upon approval of the project concept, and proof of availability of a site, and upon completion of concept drawings and commencement of marketing. The loan would be forgiven if the project did not proceed, or would be recovered at completion of the project. The size of the loan would relate to the nature of the municipality, and the expected costs of obtaining suitable zoning.

(vi) Enforcement of a limitation that projects must be built within constraints of modesty. A limitation of project capital costs could

be to 135 percent of the Maximum Unit Price prevailing in the community in which the project is to be built.

(vii) A government guarantee, under the New Homes Warantee Program, to reduce the requirements for personal guarantees from members of the sponsoring organization.

(viii) Government review of project documents and financial structure.

(ix) Issuance of a government "seal of approval" that the project conforms to it's guidelines, for use in marketing.

Program C - Additional Involvement

This program would add the following items:

(x) Government guarantee of project financing,

(xi) Government guarantee of security of seniors' tenure and financing.